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THE ONE THOUSAND ONE HUNDRED AND TWENTIETH

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED

GHANA CIVIL AVIATION ACT, 2024

AN ACT to consolidate the laws relating to civil aviation, establish the Ghana Civil Aviation Authority to regulate aviation safety, training and security and provide for related matters.

DATE OF ASSENT: 31st July, 2024.

PASSED by Parliament and assented to by the President

Ghana Civil Aviation Authority

Establishment of the Ghana Civil Aviation Authority

1. (1) There is established by this Act, the Ghana Civil Aviation Authority as a body corporate.

(2) For the performance of the functions of the Authority, the Authority may acquire and hold property, dispose of property and enter into a contract or any other related transaction.

(3) Where there is a hindrance to the acquisition of land, the land may be acquired for the Authority under the Land Act, 2020 (Act 1036) and the cost shall be borne by the Authority.

Objects of the Authority

2. The objects of the Authority are to
- (a) regulate aviation safety, training and security;
 - (b) develop opportunities for domestic and international travel and promote the movement of cargo and mail;
 - (c) regulate the provision of facilities to improve access to remote regions, enhance mobility and develop opportunities for travel within Ghana;
 - (d) facilitate efficient aviation operations;
 - (e) improve the scope and quality of aviation services;
 - (f) encourage strong and sustainable growth in the aviation industry;
 - (g) maintain the highest standards of safety, training and security in the provision of air transport; and
 - (h) develop aviation while preserving the environment.

Functions of the Authority

3. (1) To achieve the objects under section 2, the Authority shall perform the following functions:

- (a) serve as the appropriate authority for aviation security;
- (b) general functions as specified in section 4;
- (c) regulation of flight standards as specified in section 5;
- (d) regulation of the provision of air navigation services as specified in section 6;
- (e) regulation of aviation security as specified in section 7;
- (f) regulation of aerodromes and aerodrome service providers as specified in section 8;
- (g) economic regulation of air transport as specified in section 9;
- (h) coordination of the implementation and maintenance of the State Safety Programme as specified in section 10; and
- (i) any other function necessary for the attainment of the objects of the Authority.

(2) The Authority may, in addition to the functions specified under subsection (1),

- (a) take up and subscribe for or otherwise acquire shares in a company or firm or participate in the formation of a company,

- or enter into a partnership or an arrangement for the sharing of profits;
- (b) provide information relating to air safety by means of publications issued by the Authority or by any other means;
 - (c) engage in an activity, alone or in conjunction with any other civil aviation authority, international agency or organisation, for the purposes of promoting and developing civil aviation, including adopting the regulations of another State on licensing of personnel, operations and airworthiness of an aircraft, and the Authority shall file the differences between the adopted regulations and the regulations of the Organisation;
 - (d) provide technical advice or assistance, including access to training facilities, for a person with respect to a matter in which the Authority has skill or experience;
 - (e) provide training to personnel involved in aviation safety and security oversight and other personnel;
 - (f) enter into a contract for the supply of goods, services or materials, or for the execution of works or any other contract necessary for the performance of the functions of the Authority under this Act;
 - (g) carry out a work or an activity which the Authority considers requisite, advantageous or convenient, with a view to making the best use of the assets of the Authority; and
 - (h) impose charges for the use of a facility or service provided by the Authority.

General functions of the Authority

4. (1) The Authority shall, in the performance of the general functions,
- (a) administer and give effect to this Act;
 - (b) advise the Minister on matters relating to civil aviation;
 - (c) ensure due compliance with the Conventions, Annexes, Protocols, Technical Instructions, Standards and Recommended Practices of the Organisation through their domestication into Directives issued under section 37 and Instructions and Circulars issued under paragraph (b) of subsection (1) of section 23;

- (d) carry out continuous performance-based and risk-based surveillance activities to ensure compliance with the Conventions, Annexes, Protocols, Technical Instructions, Standards and Recommended Practices of the Organisation as domesticated in the Directives issued under section 37;
- (e) ensure due compliance with any other Treaty or Agreement in the field of civil aviation to which Ghana is a party;
- (f) implement safety management;
- (g) enter into agreements for cooperative endeavours in the field of civil aviation and aviation safety and security with other international and regional contracting States;
- (h) coordinate the establishment, implementation and maintenance of a State Safety Programme across the aviation industry of the Republic in order to achieve an acceptable level of safety in civil aviation;
- (i) develop the National Civil Aviation Security Programme and enforce the requirements contained in the National Civil Aviation Security Programme;
- (j) coordinate facilitation activities with other governmental agencies and stakeholders in the aviation industry;
- (k) establish, implement and maintain the National Air Transport Facilitation Programme and the National Air Transport Facilitation Committee;
- (l) expropriate property for use in aeronautical search and rescue in an emergency situation, when necessary;
- (m) carry out investigations into incidents, complaints or occurrences of safety or security issues including non-compliance and other deficiencies identified by the Authority, analysis of reported safety events, negative safety trends and results of aircraft accident and incident investigations;
- (n) take all steps reasonably necessary, including the grounding of an aircraft and sealing of the premises of an air transport service provider or provider of an allied aviation service, in order to ensure compliance with the provisions of this Act and the Directives, Instructions and Circulars issued under this Act and Regulations made under this Act;
- (o) take enforcement action and impose administrative penalties or other administrative sanctions for the contravention of a provision of this Act, the Directives, Instructions and Circulars issued under this Act;

- (p) safeguard aerodromes, navigational sites, proposed aerodromes, proposed navigational sites and navigable airspace from obstructions, interferences and intrusions which affect the safety or security of air transport;
- (q) have access to and inspect all aviation documents;
- (r) provide consultancy and management services in relation to this Act, within and outside Ghana;
- (s) perform the functions of the Authority outside Ghana when it is necessary in order to achieve the objects of the Authority;
- (t) ensure the protection of consumers of services in the aviation industry;
- (u) grant exemptions or exceptions from compliance with provisions of the Directives, Instructions and Circulars, where necessary upon application by an operator or service provider;
- (v) act, internationally, as the national authority or body representing the Republic in respect of matters relating to civil aviation;
- (w) carry out non-compliance investigation and follow-ups;
- (x) ensure that units of measurements recognised by the Organisation and aeronautical charts are used in air and ground operations;
- (y) ensure that the environment is protected against aviation related emissions and aircraft noise;
- (z) ensure the effective implementation of a safety management system by service providers and operators;
- (aa) establish recreational flying schools and other aviation related activities; and
- (bb) collaborate with relevant stakeholders in securing to the highest degree practicable, uniformity in regulations, standards and procedures in relation to aircraft, personnel, airways and auxiliary services in order to facilitate and improve air navigation by adopting and amending, where practicable, the Standards and Recommended Practices, and Technical Guidance issued by the Organisation to contracting States.

(2) Where the Authority finds that the Authority is unable to implement a provision of the Annexes to the Chicago Convention, the Authority shall

- (a) institute an acceptable means of compliance to ensure that equivalent means of safety is achieved; and
- (b) give notice to the Organisation of the difference.

Regulation of flight standards by the Authority

5. The Authority is responsible for the regulation of flight standards including

- (a) the promotion and development of safety in civil aviation and ensure safety of air navigation and aircraft;
- (b) the promotion, development and supervision of air transport operations and services;
- (c) the licensing and certification of air operators including the provision of accommodation in an aircraft;
- (d) entering into mutual agreements in the event of a lease, charter or interchange of an aircraft for the transfer of all or part of the safety oversight responsibilities in respect of the aircraft to ensure continuous surveillance of the registered aircraft and the crew of the aircraft to the State of the operator;
- (e) the licensing of flight crew and other aviation personnel;
- (f) prescribing measures to ensure the continuous airworthiness of an aircraft;
- (g) the registration and de-registration of an aircraft;
- (h) the registration and de-registration of interests in an aircraft or, a part of an aircraft including the recognition of the validity of a certificate or licence of a foreign registered aircraft;
- (i) the supervision of the operations of an aircraft;
- (j) the establishment and operation of aviation training schools, organisations and other aviation facilities;
- (k) the regulation of the importation of an aircraft, aircraft engine, aircraft propeller, aircraft main rotor, tail rotor, landing gear and other major parts for use in the country; and

- (l) the regulation of the sale, rent or lease of an aircraft, aircraft engines, aircraft propellers, appliance and spare parts for the use of an aircraft registered in the Republic.

Regulation of the provision of air navigation services by the Authority

6. The Authority is responsible for the regulation of the provision of air navigation services including

- (a) the approval and certification of air navigation service providers for the provision of air navigation services;
- (b) the certification of air navigation facilities and regulating the siting, design, construction, operation and maintenance of navigational facilities and sites;
- (c) setting standards for the provision of air navigation services;
- (d) carrying out surveillance activities including routine inspections and audits on air navigation service providers to ensure compliance with Directives and associated procedures prescribed in the International Civil Aviation Organisation Annexes and other related documents;
- (e) collaboration with the National Communications Authority and relevant authorities for the assignment of frequencies, allocation of identification codes, interrogator identification codes or call signs to communication, navigation and surveillance or air traffic management facilities as well as the management of the aeronautical band in accordance with national and international requirements specified by the Organisation and the International Telecommunication Union;
- (f) approval of flight calibration service providers and flight inspection units and their associated systems and facilities to ensure satisfactory performance and publication of results of testing and inspection of communication navigation and surveillance and air traffic management systems;
- (g) establishing a mechanism for the review, elimination, management and reporting of identified deficiencies in air navigation services;

- (h) ensuring the prompt distribution of safety critical information to air navigation service providers, aerodrome operators, airlines and stakeholders in the aviation community through aviation-related publications, notice to airmen and circulars;
- (i) ensuring the implementation of global air navigation initiatives in Ghana;
- (j) coordination of the planning and implementation of the Air Navigation Plan in Ghana;
- (k) ensuring the effective implementation of a quality management system by air navigation service providers;
- (l) the issue, review, transfer, suspension and cancellation of air navigation and communication service certificates and authorisations relating to communication links of remotely piloted aircraft systems and unmanned traffic management service providers;
- (m) ensuring the provision of a coordinated aeronautical search and rescue service within the Accra Flight Information Region; and
- (n) the coordination of the grant or refusal of landing and overflight permits to an aircraft.

Regulation of aviation security by the Authority

7. The Authority is responsible for the regulation of aviation security, including

- (a) the development of aviation security policies and requirements consistent with the provisions of Annexes 9 and 17 of the Chicago Convention;
- (b) the coordination of security activities with the relevant State agencies for purposes of preventing acts of unlawful interference with civil aviation in order that aviation security remains the highest priority when decisions are made;
- (c) ensuring the safety of passengers, crew, ground personnel and the general public in all matters related to safeguarding against acts of unlawful interference with civil aviation;
- (d) confirming and certifying of civil aviation security inspectors,

- auditors, instructors, security personnel responsible for screening, special agents and other licensed or certified persons;
- (e) ensuring compliance with the provisions set out in the National Civil Aviation Security Programme;
 - (f) issuing Directives with respect to security measures for the purpose of safeguarding civil aviation against acts of criminal violence, air piracy, and the introduction of unauthorised weapons, explosives or incendiary devices onto an aircraft, an airport, air navigation installations and other aviation installations;
 - (g) issuing Directives requiring an airport operator to have in place a security contingency plan;
 - (h) the taking of security measures to safeguard air transport, life and property;
 - (i) issuing Circulars or Instructions to require the implementation of immediate security measures;
 - (j) providing for the protection of sensitive security measures, procedures, processes, data, information and other matters that may compromise the safety and security of civil aviation in the Republic;
 - (k) the approval of the operation of aviation security services providers; and
 - (l) providing oversight for the implementation of aviation security policies and requirements.

Regulation of aerodromes and aerodrome service providers by the Authority

8. (1) The Authority is responsible for the regulation of aerodromes and aerodrome service providers including

- (a) the establishment and use of aerodromes;
- (b) the certification and registration of aerodromes;
- (c) the grant of authorisation for the use of aerodromes;
- (d) the siting, design, construction, operation, maintenance and safety management of aerodromes;
- (e) the setting of standards for the establishment of aerodromes;

- (f) the safeguarding of aerodromes;
- (g) taking measures to ensure that aerodrome operators provide adequate levels of rescue firefighting services for the category of aerodrome;
- (h) ensuring that air operators, aerodrome operators, concessionaires and users of aerodromes abide by environmental protection laws and regulations including
 - (i) protection from aircraft noise and engine emissions, bird hazard control, handling of hazardous material, petroleum products seepage and waste management; and
 - (ii) the imposition of the appropriate sanctions in the event of a violation;
- (i) the issue, review, renewal, transfer, refusal, suspension and cancellation of aerodrome certificates;
- (j) the approval of helicopter landing areas; and
- (k) the licensing and certification of aviation service providers including
 - (i) ground handling service providers;
 - (ii) aviation fuel suppliers;
 - (iii) catering service providers;
 - (iv) cargo terminal and mail handling service providers; and
 - (v) any other allied aviation service providers.

(2) For purposes of paragraph (f) of subsection (1), “safeguarding” means a process undertaken to ensure that any development or activity which takes place within the vicinity of an aerodrome does not adversely affect the safe operation of an aircraft, landing or departing.

Economic regulation of air transport by the Authority

9. The Authority is responsible for

- (a) the economic regulation of air transport including
 - (i) aerodrome operators;
 - (ii) air navigation service providers;
 - (iii) airlines and airline catering service providers;
 - (iv) ground handling service providers;
 - (v) aviation freight forwarders;
 - (vi) travel agents;

- (vii) suppliers of computer reservation system or global distribution systems;
- (viii) aviation fuel suppliers; and
- (ix) other providers of air transport services;
- (b) the economic licensing and authorisation of air transport and air transport service providers, subject to relevant rules and Directives in force;
- (c) the issue of Circulars for commercial arrangements entered into by air operators for purposes of ensuring continuous surveillance of registered operators;
- (d) the issue of Circulars for user charges and quality service delivery for air navigation services and aerodromes;
- (e) the development, implementation and enforcement of air transport competition rules and laws;
- (f) the development and review of air transport policies;
- (g) the promotion of a viable and sustainable airline industry and facilitation of aviation business development;
- (h) the conduct of economic audits of air operators registered in the country;
- (i) collating, analysing and disseminating air transport statistics;
- (j) ensuring the protection of consumers of air transport services by investigating consumer complaints and promoting customer awareness, consumer rights and satisfaction in the aviation industry;
- (k) the prevention of anti-competitive and predatory practices whilst promoting fair competition in the aviation industry; and
- (l) the review of aeronautical charges, fees and tariffs.

Coordination of the implementation and maintenance of the State Safety Programme by the Authority

10. The Authority is responsible for the coordination of the implementation and maintenance of the State Safety Programme including

- (a) the establishment of safety data collection and processing systems to capture, store, aggregate and enable the analysis of safety data and safety information;

- (b) the establishment of a mandatory and voluntary safety reporting system;
- (c) the establishment and maintenance of a system for identification of hazards and assessment of safety risks associated with identified hazards;
- (d) the protection of safety data captured by, and safety information derived from, voluntary safety reporting systems and related sources subject to Directives issued under section 37;
- (e) the establishment of a safety policy and safety objectives that reflect the commitment of the Republic regarding safety and facilitating the promotion of a positive safety culture in the aviation community; and
- (f) ensuring an acceptable level of safety performance within the civil aviation industry.

Independence of the Authority

11. The Authority is not subject to the direction or control of any person or authority in the performance of the functions of the Authority.

Categorisation as an essential service

12. The services of the Authority constitute an essential service in accordance with the Labour Act, 2003 (Act 651).

Governance of the Authority

Governing body of the Authority

13. (1) The governing body of the Authority is a Board consisting of
- (a) a chairperson;
 - (b) the Director-General;
 - (c) one representative each from
 - (i) the Ministry responsible for Aviation not below the rank of a Director nominated by the Minister; and
 - (ii) the Ministry responsible for Defence not below the rank of a Director nominated by the Minister responsible for Defence; and
 - (d) five other members, at least two of whom are women.
- (2) The President shall, in accordance with article 70 of the Constitution, appoint the chairperson and the other members of the Board.

(3) The President shall, in making the appointments under paragraphs (a) and (d) of subsection (1), have regard to the expertise and experience of the persons in matters relating to the functions of the Authority.

Functions of the Board

14. The Board shall

- (a) exercise general oversight responsibility for the strategic direction of the Authority;
- (b) oversee the effective and efficient utilisation of the resources of the Authority; and
- (c) ensure the efficient and effective performance of the functions of the Authority.

Duties and liabilities of members of the Board

15. (1) A member of the Board has the same fiduciary relationship with the Authority and the same duty to act with loyalty and in good faith as a director of a company incorporated under the Companies Act, 2019 (Act 992).

(2) Without limiting subsection (1), a member of the Board has a duty to

- (a) act honestly and in the best interest of the Authority in the performance of the functions of that member;
- (b) exercise the degree of care and diligence in the performance of the functions of that member that a person in that position would reasonably be expected to exercise in the circumstance;
- (c) avoid making improper use of information acquired by virtue of the position of that member so as to benefit that member or to the detriment of the Authority;
- (d) not abuse the position of office; and
- (e) perform a specific function determined by the Board.

(3) A member of the Board who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than two hundred and fifty penalty units.

(4) Where a court determines that the Authority has suffered a loss or damage as a consequence of the act or omission of a member of the Board, the court may, in addition to the imposition of a fine, order that member to pay appropriate compensation to the Authority.

(5) A member of the Board who is convicted of an offence under subsection (3) ceases to be a member of the Board.

Tenure of office of members of the Board

16. (1) A member of the Board shall hold office for a period of four years and is eligible for re-appointment for another term only.

(2) Subsection (1) does not apply to the Director-General.

(3) A member may resign from office in writing addressed to the President through the Minister.

(4) A member of the Board, other than the Director-General, who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.

(5) The President may, by a letter addressed to a member, revoke the appointment of that member.

(6) Where a member of the Board is, for a sufficient reason, unable to act as a member, the Minister shall determine whether the inability of the member to act would result in the declaration of a vacancy.

(7) Where there is a vacancy

(a) under subsection (3), (4), (5) or subsection (2) of section 18,

(b) as a result of a declaration under subsection (6), or

(c) by reason of the death of a member,

the Minister shall notify the President of the vacancy and the President shall appoint another person to fill the vacancy for the unexpired term.

Meetings of the Board

17. (1) The members of the Board shall meet at least once every three months for the conduct of business at a time and place determined by the chairperson.

(2) The chairperson shall, at the request in writing of not less than one third of the membership of the Board, convene an extraordinary meeting of the Board at a time and place determined by the chairperson.

(3) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, a member of the Board, other than the Director-General, elected by the members present from among their number shall preside.

(4) The quorum for a meeting of the Board is five members of the Board.

(5) The two Deputy Directors-General shall attend meetings of the Board but shall not vote on a matter for decision by the Board.

(6) Matters before the Board shall be decided by a simple majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(7) The Board may co-opt a person to attend a meeting of the Board but that person shall not vote on a matter for a decision at the meeting.

(8) The proceedings of the Board shall not be invalidated by reason of a vacancy among the members of the Board or by a defect in the appointment or the disqualification of a member.

(9) Subject to this section, the Board shall regulate the procedure for the meetings of the Board.

Disclosure of interest

18. (1) A member of the Board who has an interest in a matter for consideration by the Board

(a) shall disclose in writing the nature of that interest and the disclosure shall form part of the record of the consideration of the matter; and

(b) is disqualified from being present at or participating in the deliberations of the Board in respect of that matter.

(2) Where a member contravenes subsection (1), the chairperson shall notify the Minister who shall inform the President in writing to revoke the appointment of that member.

(3) Without limiting any further cause of action that may be instituted against the member, the Board shall recover any benefit derived by a member who contravenes subsection (1) in addition to the revocation of the appointment of the member.

Establishment of committees

19. (1) The Board may establish committees consisting of members of the Board or non-members or both to

(a) perform a function of the Board; or

(b) advise the Board on a matter referred to the committee.

(2) A committee composed of members and non-members shall be chaired by a member of the Board.

(3) Section 18 applies to a member of a committee of the Board.

Allowances

20. Members of the Board and members of a committee of the Board shall be paid allowances determined by the Minister in consultation with the Minister responsible for Finance.

Policy directives

21. (1) The Minister may, in writing, give directives of a general nature to the Board on matters of policy and the Board shall comply.

(2) A directive given under subsection (1) shall not include a matter relating to the performance of the functions or the exercise of powers in relation to individual cases.

Administrative Provisions

Appointment of Director-General

22. (1) The President shall, in accordance with article 195 of the Constitution, appoint a Director-General for the Authority.

(2) The Director-General shall hold office subject to the terms and conditions specified in the letter of appointment.

(3) A person is qualified for appointment as a Director-General if that person

- (a) has the relevant qualifications and a minimum of ten years' experience in aviation matters; and
- (b) is a person of proven integrity.

Functions of the Director-General

23. (1) The Director-General, subject to the directions of the Board on matters of policy,

- (a) is the chief executive of the Authority;
- (b) is responsible for the day-to-day administration of the Authority and in particular issue Directives, Instructions and Circulars to address specific technical matters, and the general operations of the Authority; and
- (c) shall perform any other function determined by the Board.

(2) The Director-General may, in writing, and subject to this Act, the Directives and the terms and conditions specified by the Director-General, delegate a function of the Director-General,

- (a) to an officer, an employee or an administrative unit under the Director-General;

- (b) to an air operator, a general aviation operator, a maintenance facility or to any other qualified person;
- (c) to an Aviation Safety Inspector or Aviation Security Inspector; or
- (d) to a properly qualified private person, organisation or regional body, subject to Directives, supervision and review as may be prescribed.

(3) The Director-General shall ensure that the functions are not delegated in a way to enable air operators, general aviation operators, maintenance facilities or any other qualified person to regulate themselves.

(4) The Director-General is not relieved of the ultimate responsibility for the performance of a function delegated under subsection (2).

(5) The Director-General shall monitor and enforce compliance with the

- (a) Conventions, Annexes, Protocols, Standards and Recommended Practices of the Organisation; and
- (b) Technical Instructions of the Organisation for the transport of dangerous goods by air

as domesticated by the Republic, and may make variations, where necessary.

(6) The Director-General shall publish in the *Gazette* or on the website of the Authority, Circulars or Instructions issued under paragraph (b) of subsection (1) and Directives issued under section 37.

(7) The Director-General shall issue credentials to Aviation Safety Inspectors, Aviation Security Inspectors, other required personnel of the Authority and designees acting on the instructions of the Director-General.

(8) Credentials issued under subsection (7) shall, in the performance of the duties of the holder of the credentials, grant to the holder unrestricted, unlimited and uninterrupted access to among others,

- (a) Ghanaian and foreign registered aircraft including related aircraft documents;
- (b) aerodromes;
- (c) restricted areas;

- (d) all facilities and offices used for the provision of aviation services; and
- (e) aircraft accident and incident sites.

(9) The Director-General shall be the Accountable Executive for the establishment, implementation and maintenance of the State Safety Programme.

(10) The Director-General as the Accountable Executive, is responsible for

- (a) human resource issues related to the State Safety Programme;
- (b) financial issues related to the State Safety Programme;
- (c) service provider certification and safety oversight by the Authority;
- (d) establishing a State Safety Programme coordination group and implementation team; and
- (e) the coordination of matters related to the State Safety Programme of the Republic.

Appointment of Deputy Directors-General

24. (1) The President shall, in accordance with article 195 of the Constitution, appoint two Deputy Directors-General for the Authority.

(2) A Deputy Director-General shall hold office on the terms and conditions specified in the letter of appointment.

Functions of a Deputy Director-General

25. (1) A Deputy Director-General shall

- (a) assist the Director-General in the performance of the functions of the Director-General; and
- (b) perform any other function that may be assigned by the Director-General.

(2) A Deputy Director-General is responsible to the Director-General in the performance of the functions of the Deputy Director-General.

(3) One of the Deputy Directors-General shall act in the absence of the Director-General.

Appointment of other staff

26. (1) The President shall, in accordance with article 195 of the Constitution, appoint other staff of the Authority that are necessary for the efficient and effective performance of the functions of the Authority.

(2) The Authority may, for the efficient and effective performance of the functions of the Authority, engage the services of experts and consultants on the recommendation of the Board.

Secretary to the Board

27. (1) The President shall, in accordance with article 195 of the Constitution, appoint a lawyer of not less than ten years standing at the Bar as Secretary for the Authority.

(2) The Secretary shall hold office on the terms and conditions specified in the letter of appointment.

(3) The Secretary is the head of the Legal Department.

(4) The Secretary is the secretary to the Board and is responsible for

- (a) arranging the business of the Board;
- (b) recording and keeping the minutes of the meetings of the Board; and
- (c) performing any other function that the Board or the Director-General, in consultation with the Board, may assign.

Terms and conditions of service

28. The terms and conditions of service of a person in the employment of the Authority, including matters relating to pensions, gratuities and allowances shall be approved by the Board.

Internal Audit Unit

29. (1) The Authority shall have an Internal Audit Unit in accordance with section 83 of the Public Financial Management Act, 2016 (Act 921).

(2) The Internal Audit Unit shall be headed by an Internal Auditor who shall be appointed in accordance with the Internal Audit Agency Act, 2003 (Act 658).

(3) The Internal-Auditor is responsible for the internal audit of the Authority.

(4) The Internal-Auditor shall, subject to subsections (3) and (4) of section 16 of the Internal Audit Agency Act, 2003 (Act 658), at intervals of three months

- (a) prepare and submit to the Board, a report on the internal audit carried out during the period of three months immediately preceding the preparation of the report; and
- (b) make recommendations in each report with respect to matters which appear to the Internal Auditor as necessary for the conduct of the affairs of the Authority.

(5) The Internal Auditor shall, in accordance with subsection (4) of section 16 of the Internal Audit Agency Act, 2003 (Act 658), submit a copy of each report prepared under this section to the Director-General, the chairperson of the Board and any other person required by law.

Financial Provisions

Funds of the Authority

30. (1) The funds of the Authority include

- (a) moneys approved by Parliament;
- (b) zero point seven five per cent of the airport tax collected by an aerodrome operator in accordance with section 1 of the Airport Tax Act, 1963 (Act 209);
- (c) a safety charge on all air tickets and freight charges;
- (d) a security charge on all air tickets;
- (e) internally generated funds;
- (f) moneys derived from investments; and
- (g) loans, donations and grants.

(2) The Authority may invest the moneys or a part of the moneys of the Authority in the manner approved by the Board.

Bank account of the Authority

31. The Authority shall open a bank account, with the approval of the Controller and Accountant-General, into which moneys received by the Authority shall be paid.

Borrowing powers

32. (1) Subject to section 76 of the Public Financial Management Act, 2016 (Act 921), the Authority may, borrow money for the purposes of the performance of the functions of the Authority under this Act.

(2) The Authority may

- (a) charge the revenues of the Authority with the repayment of moneys borrowed together with interest on those moneys;

- (b) issue debentures to secure repayment of the money borrowed together with interest on that money; or
- (c) do any other thing necessary in connection with borrowing under paragraphs (a) and (b).

Application of funds

33. The funds of the Authority in a financial year shall be applied in the payment of

- (a) the working management and establishment expenses of the Authority chargeable to income,
- (b) interest on or repayments of the principal of moneys borrowed by the Authority, and
- (c) the moneys set aside by the Board for the development, renewal, depreciation and any other purposes determined by the Board.

Accounts and audit

34. (1) The Board shall keep books, records, returns and other documents relevant to the accounts in the form approved by the Auditor-General.

(2) The Board shall submit the accounts of the Authority to the Auditor-General for audit at the end of the financial year.

(3) The Auditor-General shall, within six months after the end of the immediately preceding financial year,

- (a) audit the accounts and submit the audit report to Parliament; and
- (b) forward a copy each of the audit report to the Minister and the Board.

(4) The financial year of the Authority is the same as the financial year of the Government.

Annual report and other reports

35. (1) The Board shall, within thirty days after the receipt of the audit report, submit to the Minister an annual report covering the activities and operations of the Authority for the year to which the annual report relates.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall, within thirty days after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Board shall submit to the Minister any other report which the Minister may require in writing.

Air Navigation and Civil Aviation

Application of international air law instruments

36. (1) The provisions contained in the Protocol to amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft signed at Montreal on 4th April, 2014 and set out in the First Schedule are, from the date of entry into force of this Act, applicable in the Republic.

(2) The provisions contained in the Convention for the Unification of Certain Rules for International Carriage by Air signed at Montreal on 28th May, 1999 as modified and set out in the Second and Third Schedules and as amended from time to time, shall from the date of entry into force of this Act have the force of law and apply to

- (a) international carriage of air to and from Ghana in relation to a carriage by air to which those rules apply; and
- (b) non-international carriage by air within Ghana, irrespective of the nationality of the aircraft performing the carriage, and shall, subject to the provisions of this Act, govern the rights and liabilities of carriers, passengers, consignors, consignees and other persons.

(3) In the case of an aircraft accident resulting in the death or injury of passengers, the carrier shall in accordance with the Second and Third Schedules

- (a) make advance payments of at least thirty thousand United States Dollars within thirty days from the date of the accident, to the natural person or any natural persons who are entitled to claim compensation in order to meet the immediate economic needs of the persons; and
- (b) the advance payments shall not constitute recognition of liability and may be offset against any amounts subsequently paid as damages by the carrier.

(4) The provisions of the Convention on International Interests in Mobile Equipment 2001 and the Protocol to the Convention on International Interests in Mobile Equipment on matters Specific to Aircraft

Equipment 2001, that is the Cape Town Convention and Protocol set out in the Fourth Schedule shall from the date of entry into force of this Act, be applicable in the Republic.

(5) The provisions contained in the Convention for the Suppression of the Unlawful Seizure of Aircraft signed at the Hague on 16th December, 1970 as amended and set out in the Fifth Schedule shall from the date of entry into force of this Act, be applicable in the Republic.

(6) The provisions contained in the Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation and the Protocol Supplementary to the Convention for the Suppression of the Unlawful Seizure of Aircraft, signed at Beijing on 10th September, 2010 and set out in the Sixth Schedule shall from the date of entry into force of this Act, be applicable in the Republic.

(7) The provisions contained in the Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface signed at Rome on 7th October, 1952 as amended and set out in the Seventh Schedule shall from the date of entry into force of this Act, be applicable in the Republic.

(8) The provisions contained in the Convention on Compensation for Damage to Third Parties, Resulting from Acts of Unlawful Interference Involving Aircraft signed in Montreal on 2nd May, 2009 as amended and set out in the Eighth Schedule shall from the date of entry into force of the Convention be applicable in the Republic.

(9) The provisions contained in the Convention on Compensation for Damage Caused by Aircraft to Third Parties signed in Montreal on 2nd May, 2009 as amended and set out in the Ninth Schedule shall from the date of entry into force of the Convention be applicable in the Republic.

(10) The provisions contained in the Protocol Relating to an Amendment to the Convention on International Civil Aviation [Article 50(a)], signed at Montréal on 6th October, 2016 and set out in the Tenth Schedule shall from the date of the entry into force of the Protocol be applicable in the Republic.

(11) The provisions contained in the Protocol Relating to an Amendment to the Convention on International Civil Aviation [Article 56] signed at Montréal on 6th October, 2016 and set out in the Eleventh Schedule shall from the date of the entry into force of the Protocol be applicable in the Republic.

(12) The provisions contained in the Constitution of the African Civil Aviation Commission, adopted at the meeting of Plenipotentiaries in Dakar, Senegal on 16th December, 2009 and set out in the Twelfth Schedule and as amended from time to time shall, from the date of entry into force of this Act, be applicable in the Republic.

Directives

37. (1) The Director-General may issue Directives for

- (a) the registration and de-registration of an aircraft in the Republic;
- (b) the examination and design of an aircraft, aircraft engine, propellers, appliance and spare parts, and the issue of certificates of airworthiness for an aircraft;
- (c) prohibiting an aircraft from flying;
- (d) the certification, registration, inspection and regulation of aerodromes and places where an aircraft may land and for prohibiting the use of unregistered aerodromes;
- (e) unimpeded access to aircraft factories, or premises where an aircraft is undergoing repair, for purposes of inspecting work carried on in relation to that aircraft or parts of that aircraft, and admission into the aircraft;
- (f) ensuring unimpeded access to aircraft factories, aircraft cabin and flight deck, hangars, workshops, aerodromes, ramp, fuel storage farms, office of the operator and at a reasonable time to conduct a test or an inspection in order to determine the compliance with this Act or the Directives;
- (g) prohibiting persons from engaging in or being employed in or in connection with air navigation as specified in the Directives except in accordance with the provisions contained in the Directives;
- (h) the licensing of the following persons:
 - (i) cockpit and cabin crew;
 - (ii) flight dispatchers;
 - (iii) flight and ground engineers;
 - (iv) air traffic controllers;
 - (v) air traffic safety electronic personnel;
 - (vi) aeronautical information services personnel;
 - (vii) aviation security instructors and screeners;

- (viii) persons employed at aerodromes; and
- (ix) persons engaged in the inspection or supervision of aircraft;
- (i) the conditions under which, and in particular the aerodromes to or from which an aircraft entering or leaving the Republic may fly, and the conditions under which an aircraft may fly from one part of the Republic to another;
- (j) requiring the screening prior to boarding of an aircraft of persons and property intended to be carried in the aircraft;
- (k) the conditions under which passengers and goods may be carried for any other commercial, industrial or gainful purposes, and for prohibiting the carriage by air of goods of the classes specified in the Directives;
- (l) the carriage of weapons, arms and ammunitions on board an aircraft and at an airport;
- (m) minimising or preventing interference with the use or effectiveness of apparatus used in connection with air navigation and for prohibiting or regulating the use of that apparatus and the display of signs and lights likely to endanger an aircraft;
- (n) the detention of an aircraft for purposes of carrying out or implementing this Act and the Directives, Instructions or Circulars issued by the Director-General;
- (o) requiring persons engaged in, employed in or in connection with air navigation to supply meteorological information for purposes of air navigation;
- (p) controlling the making of signals and any other communications by or to an aircraft and persons carried in an aircraft;
- (q) regulating the design and use of the civil air ensign which may be established for purposes of air navigation;
- (r) the manner and conditions of the issue, validation, conversion, renewal, extension or variation of the certificate of an air operator or any other certificate, licence, or any other document required by the Directives, including the examinations and tests to be undergone, and as to the form, custody, production, cancellation, suspension, endorsement and surrender of that document;
- (s) the circumstances under which the Authority may grant, refuse, revoke or suspend a licence or authorisation;

- (t) requiring a person who is involved in an air transport undertaking to provide information;
- (u) recording and registration of births and deaths occurring in a part of the world on an aircraft registered in the Republic, and of the death outside the Republic of a person who as a traveller on an aircraft, dies during the journey in consequence of an accident;
- (v) promoting in the public interest the safety of flight of a civil aircraft and the protection of persons and property on board an aircraft operating in commercial air transport and generally for the regulation of civil aviation and air navigation;
- (w) securing the highest practicable degree of uniformity in regulations, standards and procedures in relation to aircraft, personnel, air ways and auxiliary services to facilitate and improve air navigation as well as adopt and amend from time to time the standards, recommendations, practices and procedures of the Organisation in relation to
 - (i) characteristics of airports and landing areas;
 - (ii) rules of the air and air traffic control practices;
 - (iii) the airworthiness of an aircraft;
 - (iv) the registration and identification of an aircraft;
 - (v) log books;
 - (vi) customs and immigration procedures;
 - (vii) air navigation services functional areas;
 - (viii) aircraft in distress and investigation of safety incidents, occurrences and other matters concerned with the safety, regularity and efficiency of air transport, as and when necessary;
 - (ix) an aircraft in distress and investigation of incidents and other matters concerned with the safety regularity and efficiency of air navigation, as and when necessary;
 - (x) establishing, identifying, implementing and reviewing safety management systems and policies for the safety of a civil aircraft operation;
 - (xi) adopting resolutions that require operators or service providers to establish and implement safety management systems;

- (xii) establishing a quality assurance system for internal quality audit system;
- (xiii) coordinating security activities with the agencies of Government including the National Security Council, the National Civil Aviation Security Committee, the Ghana Armed Forces, the Police Service and the National Disaster Management Organisation; and
- (xiv) establishing a system to document the title to or an interest in a civil aircraft registered in the Republic or an aircraft engine, propellers, appliances or spare parts for use on an aircraft registered in the Republic;
- (x) the facilitation of persons and goods;
- (y) the safety of operations and surveillance of foreign air operators;
- (z) the economic regulation of aerodrome operators, air operators, air navigation service providers and other allied aviation service providers;
- (aa) the inspection of documents including manuals, certificates, authorisations, approvals, permits, procedures, technical files, personnel files, personnel licences and other activities necessary to ensure compliance with this Act;
- ~~(hh) the inspection of documents and other activities necessary to ensure compliance with this Act;~~
- (cc) the issuance, renewal, extension or variation of an air carrier licence;
- (dd) the insurance to be maintained by a domestic carrier in respect of the liability of the domestic carrier under the Third Schedule;
- (ee) the protection of consumers of air transport services;
- (ff) the collection, use and retention of Advanced Passenger Information and Passenger Name Record Data;
- (gg) the certification and approval of aviation training schools, organisations and facilities;

- (hh) the establishment and regulation of flying schools, recreational flying and other related aviation activities;
 - (ii) the regulation of the transportation of dangerous goods by air;
 - (jj) the regulation of Remotely Piloted Aircraft Systems; and
 - (kk) the effective and efficient implementation of matters related to aviation safety and security.
- (2) The Directives issued under subsection (1) may provide for
 - (a) requiring a person specified in the Directives to make returns to the Authority and to any other specified authorities;
 - (b) the keeping by the Authority of a record of returns made under paragraph (a);
 - (c) the transmission to the Registrar of Births and Deaths of an air register book of births and deaths;
 - (d) the keeping by the Authority of a record of persons reported to the Authority as missing, or persons reported with respect to whom there are reasonable grounds for believing that the persons have died in consequence of an accident involving an aircraft registered in the Republic; and
 - (e) the rectification of records kept by virtue of this subsection.
- (3) The Directives issued under subsection (1) may provide for the
 - (a) issue of airman certificates;
 - (b) issue of certificates of airworthiness of an aircraft;
 - (c) issue of certificates for air operators;
 - (d) establishment of minimum safety standards for the operations of air operators; and
 - (e) issue of specific provisions for air operators.
- (4) The Directives issued under subsection (1) may provide for
 - (a) the adoption of Annexes, Procedures for Air Navigation Services, Circulars, Documents, Conventions and Protocols of the Organisation;
 - (b) the empowerment of Aviation Safety Inspectors and Aviation Security Inspectors to prevent an aircraft from flying for safety and security reasons when justified either directly or by an established process that can be used in a timely manner;

- (c) the prohibition of persons from exercising privileges of their licences, certificates or other aviation documents for just cause, either directly or through an established process, that can be applied in a timely manner; and
 - (d) the requirement that commercial air transport operations shall be conducted in accordance with Directives in the interest of safety and security and in accordance with the Chicago Convention.
- (5) The Directives issued under subsection (1) may provide for
 - (a) the adoption of
 - (i) Annexes to the Chicago Convention, the Standards and Recommended Practices of the Chicago Convention as well as the adoption of operation directives, rules and regulations of the Organisation; and
 - (ii) the Technical Guidance material of the Organisation that the Authority may consider appropriate; and
 - (b) the requirement that commercial air transport operations shall be conducted in accordance with the Directives in the interest of safety and in accordance with the Chicago Convention.
- (6) The Directives issued under subsection (1) may provide for
 - (a) the manner and the form in which complaints against the performance of a function under this Act or the Directives may be made to the Director-General; and
 - (b) the investigation by the Director-General of complaints made under paragraph (a).
- (7) The Directives issued under subsection (1) may provide for
 - (a) rules governing the flight of an aircraft;
 - (b) the navigation, protection and identification of an aircraft;
 - (c) the safety and protection of persons and property on the ground;
 - (d) the efficient utilisation of the navigable airspace, including the safe altitude of flights and the prevention of collision between
 - (i) aircraft;

- (ii) an aircraft and land or water, vehicles and any other objects; and
- (iii) an aircraft and airborne objects;
- (e) the examination and rating of civilian schools giving instructions in flying or in the repair, alteration, maintenance and overhaul of an aircraft, aircraft engines, propellers, and appliances, as to the adequacy of the course of instruction, the suitability and airworthiness of the equipment, and the competency of the instruction;
- (f) the examination and rating of approved maintenance organisations or shops for the repair, alteration, maintenance and overhaul of aircraft, aircraft engines, propellers and appliances, as to the adequacy and suitability of the equipment, facilities and materials for, and methods of repair and overhaul, and the competence of those engaged in the work and of the instructors;
- (g) the examination and rating of organisations that design and manufacture aircraft engines, propellers, appliances and spare parts; and
- ~~(h) the examination and rating of the issues of appropriate certificates of approval for schools and approved maintenance organisations.~~

(8) The Directives issued under this section may provide administrative penalties for a contravention of the Directives.

(9) A penalty imposed under subsection (8) shall not exceed three hundred thousand penalty units.

Extra-territorial effect of Directives

38. In accordance with customary international law, Directives made under this Act do not have extra-territorial effect except as allowed by the Conventions, Protocols or any of the international agreements to which the Republic is a party.

Control of civil aviation in an emergency

39. (1) In times of war, whether actual or imminent, or of a national emergency, and subject to article 31 of the Constitution, the President may, by Executive Instrument,

- (a) regulate or prohibit, either absolutely or subject to the conditions contained in the Instrument, the navigation of an aircraft, or a description of aircraft, over the Republic or a part in the Republic;
- (b) provide for the taking possession of and the using for the purposes of the naval, military or air forces of the Republic, an aerodrome or an aircraft, in the Republic, or anything found in or on that aerodrome or aircraft; and
- (c) regulate or prohibit the use of an aerodrome or the premises used in connection with an aircraft or air navigation.

(2) A person who contravenes a provision of an Executive Instrument made under subsection (1) commits an offence and is liable on summary conviction to a fine of not less than fifty thousand penalty units and not more than two hundred thousand penalty units or to a term of imprisonment of not less than five years and not more than thirty years, or to both.

(3) A person who suffers direct injury or loss owing to the operation of an instrument made under subsection (1) shall be paid compensation the amount of which shall be determined by the President.

(4) Where the Director-General is of the opinion that an emergency requiring immediate action with respect to safety or security in civil aviation exists, the Director-General shall

- (a) take the measures that are necessary or essential in the interests of safety or security in civil aviation; and
- (b) initiate proceedings relating to the matter that has given cause to the emergency.

(5) A person who contravenes a directive issued under subsection (4) commits an offence and is liable on summary conviction to a fine of not less than fifteen thousand penalty units and not more than one hundred thousand penalty units or to a term of imprisonment of not less than five years and not more than thirty years, or to both.

(6) Direct loss or injury suffered as a result of an action taken under paragraph (a) of subsection (4) shall be dealt with by reference to the relevant insurance policy.

Prohibition of flying over specified areas

40. (1) The Director-General may, by Executive Instrument, with the prior approval in writing of the President, prohibit an aircraft from flying over an area in the Republic specified

- (a) in the Executive Instrument; or
- (b) by notice in the *Gazette*.

(2) An Executive Instrument made under subsection (1) may specify steps to be taken for intercepting an aircraft in the Instrument and in accordance with Directives issued by the Director-General and published on the website of the Authority.

(3) A person who contravenes a provision of an Executive Instrument made under subsection (1) commits an offence and is liable on summary conviction to a fine of not less than fifty thousand penalty units and not more than two hundred thousand penalty units or to a term of imprisonment of not less than five years and not more than thirty years, or to both.

Dangerous flying

41. (1) A person in charge of an aircraft shall not fly the aircraft in a manner that causes or is likely to cause unnecessary danger to person or property.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than ten thousand penalty units and not more than one hundred thousand penalty units or to a term of imprisonment of not less than five years and not more than thirty years, or to both.

(3) Where a person is convicted of an offence under subsection (2), the owner of the aircraft shall be deemed to have committed that offence unless the owner establishes before the Court or tribunal

- (a) that the aircraft was flown without the consent or connivance of the owner; and
- (b) that the owner had taken reasonable steps and had exercised due diligence to prevent the commission of the offence having regard to the circumstances.

(4) For purposes of this section, “owner” in relation to an aircraft includes a person by whom the aircraft is hired at the time of the offence.

Rules of the air

42. An aircraft flying over the high seas or airspace within the Accra Flight Information Region or manoeuvring within the territory of Ghana, and every aircraft carrying a Ghanaian nationality mark, shall comply with Annex 2 of the Chicago Convention without exception.

Aircraft in distress

43. (1) The Authority shall ensure that an air navigation service provider, aerodrome operator and other service providers take measures to provide assistance, as may be practicable, to an aircraft in distress within the Accra Flight Information Region.

(2) In the provision of the assistance in subsection (1), the air navigation service provider, aerodrome operator, other authorities and persons as may be required, shall collaborate in coordinated measures which may be recommended from time to time pursuant to the provisions of the Chicago Convention.

(3) The Authority may permit the owners and operators of the aircraft or the authorities of the State of Registry to provide such measures as may be necessitated by the circumstances.

(4) The owners and operators of the aircraft or the authorities of the State of Registry referred to in subsection (3) shall be subject to the control of the air navigation service provider once the owner and operator of the aircraft or the authorities of the State of Registry are within the jurisdiction.

Unauthorised commercial flying

44. (1) A person shall not fly or use, or attempt to fly or use, an aircraft in the Republic for carrying passengers or goods for hire or reward, on a journey or class of journey whether beginning and ending at the same point or at different points except

- (a) under the authority of and in accordance with the terms and conditions of a licence granted to that person by the Authority, or
- (b) an aircraft which is registered and certificated in a State adhering to the Chicago Convention and which is flown or

used in the Republic in pursuance of an agreement between the government of that State and the Government.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than thirty thousand penalty units and not more than two hundred thousand penalty units or to a term of imprisonment of not less than five years and not more than thirty years, or to both.

Valid insurance and aircraft documents to be carried on board an aircraft

45. (1) Subject to section 36, a person shall not fly or cause or permit another person to fly an aircraft into or out of the Republic unless there is in force in relation to the flying of the aircraft by that person, or that other person,

- (a) a valid certificate of insurance issued by an authorised insurer; and
- (b) a certificate of airworthiness issued by the relevant civil aviation authority.

(2) For purposes of subsection (1), a valid certificate of insurance shall, subject to the restrictions or conditions specified in the certificate of insurance, insure the owner of the aircraft against liabilities incurred in respect of loss or damage caused to persons or property by, or by a person in, or an article or person falling from, the aircraft while in flight, taking off or landing.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than two hundred thousand penalty units and not more than three hundred thousand penalty units or to a term of imprisonment of not less than ten years and not more than thirty years, or to both.

(4) For purposes of this section, “authorised insurer” means a person or body of persons carrying on a marine, aviation or transit insurance business approved by the Authority.

(5) The following documents shall be carried on board an aircraft:

- (a) a certificate of registration;
- (b) a certificate of airworthiness;
- (c) appropriate licences for each member of the crew;

- (d) a journey log book;
- (e) an aircraft radio station license if the aircraft is equipped with radio apparatus;
- (f) the list of names, place of embarkation and destination of passengers for passenger flights;
- (g) a cargo manifest and detailed declaration of cargo;
- (h) a certified copy of the certificate of the air operator;
- (i) an Environmental Protection Certificate or Aircraft Noise Certificate;
- (j) a Certificate of Insurance; and
- (k) any other document that may be required from time to time in accordance with Directives issued by the Director-General.

Transportation of dangerous goods by air

46. A person who offers or accepts shipments, cargo or baggage for commercial air transport, whether originating or arriving on international flights to or from the Republic, or for flights within the Republic, shall offer or accept the shipments, cargo or baggage in accordance with the

- (a) Directives issued under this Act; and
- (b) the Technical Instructions of the Organisation on the safe transport of dangerous goods.

Trespass, nuisance and damage

47. (1) An action does not lie in respect of trespass or in respect of nuisance by reason only of

- (a) the flight of an aircraft over a property at a height above the ground, which, having regard to wind, weather and the circumstances of the case is reasonable; or
- (b) the ordinary incidents of those flights so long as the provisions of this Act and an order made in pursuance of this Act are duly complied with.

(2) Subject to subsection (3), where material loss or damage is caused to

- (a) a person or property, by an aircraft, or
- (b) by a person in, or an article in or person falling from, an aircraft while that aircraft is in flight, taking off or landing,

then unless the loss or damage was caused or contributed to by the negligence of the person by whom the damage was suffered, damages in respect of the loss or damage is recoverable without proof of negligence or intention or any other cause of action, as if the loss or damage had been caused by the wilful act, neglect or default of the owner of the aircraft.

(3) Where material loss or damage is caused in circumstances in which

(a) damages are recoverable in respect of the loss or damage by virtue only of subsection (2), and

(b) a legal liability is created in a person other than the owner to pay damages in respect of the loss or damage,

the owner is entitled to be indemnified by that other person against a claim in respect of the loss or damage.

Nuisance on aerodromes

48. (1) The Directives issued under section 37 may

(a) provide for the conditions under which noise and vibration may be caused by an aircraft on an aerodrome; and

(b) apply to an aerodrome in respect of which provisions as to noise and vibration caused by an aircraft are to be made.

(2) An action does not lie in respect of nuisance by reason only of the noise and vibration caused by an aircraft on an aerodrome to which subsection (1) applies by virtue of the Directives issued under section 37 where the provisions of any of the Directives are duly complied with.

Miscellaneous Provisions

Custody and disposal of lost property

49. (1) The Director-General shall issue Directives for securing the safe custody and re-delivery of property which, while not in proper custody, is found on

(a) premises belonging to the Authority or under the control of the Authority;

(b) premises occupied by a person or body of persons operating an air transport service; or

(c) an aircraft or any other premises.

(2) The Directives may

(a) provide for the charges to be paid in respect of property before the property is re-delivered; and

- (b) authorise the disposal of property which is not re-delivered before the expiration of the period specified in the Directives.

Wreck and salvage of aircraft

50. (1) For purposes of this Act, services rendered

- (a) in assisting,
- (b) in saving life,
- (c) in saving the cargo or apparel of an aircraft,
- (d) on or over the sea or a tidal water, or
- (e) on or over the shores of the sea or a tidal water,

are salvage services as if those services had been rendered in relation to a vessel.

(2) Where salvage services are rendered by an aircraft to property or a person, the owner of the aircraft is by the rendering of those services, entitled to the reward that the owner of a vessel would be entitled to if the aircraft had been a vessel.

(3) Subsections (1) and (2) shall have effect whether or not the aircraft concerned is a foreign aircraft and the services in question are rendered elsewhere not within the limits of the territorial waters adjacent to the Republic.

(4) The President may, by Executive Instrument, direct that a provision of an enactment which relates to wreck, to salvage of life or property or to the duty of rendering assistance to vessels in distress shall, with the exceptions, adaptations and modifications specified in the Instrument, apply in relation to an aircraft as that provision applies in relation to vessels.

Regulations on vessels applicable to seaplanes

51. (1) The power of the Minister responsible for Ports, Harbours and Railways under subsection (1) of section 217 of the Ghana Shipping Act, 2003 (Act 645) to make Regulations for the prevention of collision at sea shall extend to collision

- (a) between seaplanes on the surface of the water, and
 - (b) between vessels and seaplanes on the surface of the water,
- and accordingly, section 173 and sections 221, 222 and 231 of the Ghana Shipping Act, 2003 (Act 645) apply in relation to seaplanes on the surface of the water as they apply to ships.

(2) Subject to subsection (3), an enactment which confers or imposes on a harbour authority a power to make Regulations for the regulation of ships or vessels shall be construed as if that power included

- (a) a power, subject to the prior approval of the Minister, to make Regulations for the regulation of seaplanes when on the surface of the water, and
- (b) a power to include in the Regulations provisions authorising the harbour master or any other officer of the harbour authority to perform as regards seaplanes on the surface of the water, the functions which the harbour master is authorised by the enactment to perform with respect to ships or vessels.

(3) Regulations made under subsection (2) shall not require, or authorise a harbour master or any other officer to require the dismantling of a seaplane or a part of the seaplane or the making of an alteration of the structure or equipment of a seaplane.

(4) For purposes of this section, seaplanes taking off from or alighting on, the water are on the surface of the water while in contact with the owner; and

“harbour authority” includes a person or body of persons, corporate or unincorporated, entrusted with the duty of developing, managing, regulating or maintaining a harbour;

“seaplane” includes a flying boat and any other aircraft designed to manoeuvre on water;

“ship” includes every description of vessel used in navigation not propelled by oars;

“vessel” includes a ship, a boat and any other description of vessel used in navigation; and

a reference in the Ghana Shipping Act, 2003 (Act 645) to the

“master” shall be construed as a reference to the pilot or any other person on duty or in charge of the seaplane.

Exemption of an aircraft from seizure on patent claims

52. (1) A lawful entry into the Republic or a lawful transit across the Republic, with or without landing of an aircraft to which this section applies shall not entail

- (a) a seizure or detention of the aircraft,

- (b) proceedings being brought against the owner or operator of the aircraft, or
- (c) any other interference by or on behalf of a person in the Republic,

on the grounds that the construction, mechanism, parts, accessories of or operation of the aircraft is or are an infringement of a patent, design or model.

(2) Subject to subsection (3), the importation into, and storage in the Republic of spare parts and spare equipment for an aircraft to which this section applies, and the use and installation of those parts or equipment in the repair of that aircraft shall not entail

- (a) a seizure or detention of the aircraft or of the spare parts or spare equipment,
- (b) proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment, or
- (c) an interference with the aircraft by or on behalf of a person in the Republic, on the grounds that the spare parts or equipment or their installation are or is an infringement of a patent, design or model.

(3) Subsection (2) does not apply in relation to spare parts or spare equipment which are sold or distributed in the Republic or are exported from the Republic for sale or distribution.

(4) This section applies

- (a) to aircraft, other than an aircraft used in military, customs or police services, registered in a country or territory in respect of which there is in force a declaration made by the President by Executive Instrument, with a view to the fulfilment of the provisions of the Chicago Convention to which this section relates, that the benefits of those provisions apply to that country or territory; and
- (b) to any other aircraft as the President may by Executive Instrument specify.

Patent claims not protected under Chicago Convention

53. (1) Where it is alleged by an interested person that a foreign aircraft, which is not an aircraft to which section 52 applies and which is

making a passage through or over the Republic, infringes in itself or in a part of it, an invention, a design or model which is entitled to protection in the Republic, the relevant authority may, in accordance with the Rules of Court, detain the aircraft until the owner deposits an amount of money or sufficient security in respect of the alleged infringement.

(2) Where an amount is deposited or security is given pursuant to subsection (1), the aircraft shall not, during the continuance or in the course of the passage, be subject to a lien, an arrest, a detention or prohibition whether by an order of a court or otherwise, in respect of or on account of the alleged infringement.

(3) The amount deposited or the security given shall be agreed between the interested parties or in default of agreement, fixed by the Authority or a person duly authorised on its behalf, and payment of the amount shall be made or secured to the Authority in the manner approved by the Authority.

(4) The amount deposited shall be dealt with in accordance with the procedure prescribed by the Rules of Court, which Rules may provide generally for carrying this section into effect.

(5) For purposes of this section,

“owner” includes the actual owner of the aircraft; and

“passage” includes reasonable landings and stoppages in the course, or for the purposes, of the passage.

Exemptions

54. (1) This Act does not apply to an aircraft which belongs to or is exclusively employed in the service of the Government.

(2) Despite subsection (1) the President may, by Executive Instrument, direct that a provision or the Directives under this Act apply to an aircraft or in connection with an aircraft, to an aerodrome, land or premises.

(3) The Director-General may, in the public interest and in writing, prescribe that a foreign aircraft and the airmen serving on that aircraft, be exempted from paragraph (a) of subsection (4) of section 52.

(4) Subsection (3) does not confer an exemption from observing Directives on air traffic.

(5) A provision in this Act, or in an instrument made under this Act shall not prejudice or affect the rights, powers and privileges of a light-house.

Aircraft offences and jurisdiction

55. (1) An offence committed on an aircraft registered in the Republic shall, for the purposes of jurisdiction, be deemed to have been committed in the place where the offender is for the time being.

(2) Where a body corporate is convicted of an offence under this Act, every director, general manager, secretary or any other officer of the body corporate, or a person purporting to act in that capacity, shall be deemed to have committed that offence.

(3) A person shall not be convicted pursuant to subsection (2) where that person proves that the offence was committed without the consent or connivance of that person and that due diligence was exercised to prevent the commission of the offence having regard to the circumstances.

(4) For purposes of subsection (2) “director” includes a person occupying the position of director by whatever name called and a person who, at the time of the commission of the offence was a director of the body corporate.

- (5) A person commits an offence if that person
 - (a) on board an aircraft assaults, intimidates or threatens, whether physically or verbally, a crew member where the act interferes with the performance of the functions of a crew member or lessens the ability of the crew member to perform any of those functions;
 - (b) refuses to comply with a lawful instruction given by the person in command of the aircraft or by a crew member for the purpose of ensuring the safety of the aircraft or of a person or property on board the aircraft or for the purpose of maintaining good order and discipline on board the aircraft;
 - (c) does an act of physical violence against a person or sexually assaults a person or molests a child on board the aircraft;
 - (d) assaults, intimidates or threatens whether physically or verbally, any other person on board the aircraft, or

consumes an alcoholic beverage or a drug resulting in intoxication

- (i) if the act endangers or is likely to endanger the safety of the aircraft or of a person on board the aircraft; or
 - (ii) if the act jeopardises or is likely to jeopardise the good order and discipline on board the aircraft;
- (e) causes damage to the aircraft or destruction of property on board the aircraft;
- (f) smokes or tampers with a smoke detector or any other safety-related device on board the aircraft;
- (g) operates a portable electronic device on an aircraft at a time that is prohibited;
- (h) unlawfully or intentionally destroys an aircraft in service or causes damage to the aircraft in a manner that renders the aircraft incapable of flight or which is likely to endanger the safety of the aircraft in flight;
- (i) unlawfully or intentionally places or causes to be placed on an aircraft in service by any means whatsoever a device or substance that is likely to destroy that aircraft or to cause damage to the aircraft that renders the aircraft incapable of flight or that is likely to endanger the safety of the aircraft in flight;
- (j) obstructs, interferes with, destroys, steals or causes damage to a communication, navigation, surveillance system, instrument, cables or any part of the systems or instruments or any air navigation facility or its operations, in a manner that is likely to endanger the safety of an aircraft in flight;
- (k) destroys, or causes serious damage to the facilities of, an airport serving international civil aviation or aircraft not in service located thereon, or disruption of the services of the airport, if such an act endangers or is likely to endanger safety at that airport;
- (l) communicates information which a person knows to be false, thereby endangering the safety of an aircraft in flight; or

- (m) carries a weapon or ammunition into an aerodrome or an aircraft for the purpose of travelling without
 - (i) the relevant authorisation; and
 - (ii) declaration to the air operator.

- (6) A person on board an aircraft on ground or in flight
 - (a) who unlawfully, by force or threat of force, or by any other form of intimidation, seizes or exercises control of that aircraft; or
 - (b) who attempts to commit any of the acts referred to in paragraph (a) or abets the commission of an act referred to in paragraph (a)

commits the offence of hijacking of an aircraft, and is liable on summary conviction to imprisonment for life.

(7) A person who in the course of committing the offence of hijacking of an aircraft under subsection (6) commits, in connection with the offence, any act of violence against a passenger or member of the crew of the aircraft which that person would have been liable to under any law that person is liable to any punishment in force in Ghana if the act had been committed in Ghana.

(8) Unless Parliament otherwise provides, the High Court has exclusive original jurisdiction

- (a) to enforce a claim in respect of an aircraft;
- ~~(b) to deal with an offence which took place on board~~
 - (i) an aircraft registered in the Republic,
 - (ii) an aircraft leased, with or without a crew, to an operator whose principal place of business is in the Republic, or if the operator does not have a principal place of business in the Republic, a permanent residence in the Republic, or
 - (iii) an aircraft in or in flight over the Republic;
- (c) to deal with an offence which took place in an aircraft in flight outside the Republic,
 - (i) where the next landing of the aircraft is in the Republic, and
 - (ii) where the person in command of the aircraft delivers the suspected offender to the competent authority in the Republic with the request that the competent

authority prosecutes the suspected offender, and with the affirmation that a similar report has not been or will not be made to another State; or

(d) for offences specified under this Act.

(9) For purposes of subsection (8), an aircraft is considered to be “in flight” at any time from the moment when the external doors of the aircraft are closed following embarkation until the moment when a door is opened for disembarkation and in the case of a forced landing, the flight is deemed to continue until the competent authorities take over the responsibility for the aircraft and for the persons and property on board.

(10) A person who commits an offence under this section for which a penalty is not provided is liable on summary conviction to a fine of not less than ten thousand penalty units and not more than three hundred thousand penalty units or to a term of imprisonment of not less than five years and not more than thirty years, or to both.

(11) The Authority may by Directives prohibit certain acts which constitute unruly or indecent behaviour on board an aircraft in or over Ghana and the Directives may include appropriate sanctions.

Grounding of aircraft without authorisation

56. (1) A person shall not

- (a) ~~unlawfully, by force or threat of force, or by any other form~~ of intimidation, seize or exercise control of an aircraft; or
- (b) attempt to commit any of the acts referred to in paragraph (a) or abet the commission of any of the acts referred to in paragraph (a).

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than thirty thousand penalty units and not more than three hundred thousand penalty units or to a term of imprisonment of not less than ten years and not more than thirty years, or to both.

Other offences

57. (1) A person shall not obstruct or hinder an officer, agent or employee of the Authority acting in the performance of a function under this Act, an Executive Instrument or the Directives.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than thirty thousand penalty units and not more than two hundred thousand penalty units or to a term of imprisonment of not less than five years and not more than twenty years, or to both.

(3) A person shall not knowingly aim the beam of a laser pointer at

- (a) an aircraft, taking off or landing; or
- (b) a flight path.

(4) A person who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine of not less than ten thousand penalty units and not more than twenty thousand penalty units or to a term of imprisonment of not less than five years and not more than twenty years, or to both.

(5) Subsection (3) does not apply where the beam of the laser pointer is used by

- (a) an authorised individual in the conduct of research and development or flight test operations;
- (b) the security agencies for purposes of research development, testing or training; or
- (c) an individual to send an emergency distress signal.

(6) Except as otherwise provided in this Act or the Directives, a ~~person who fails to comply with an order, a directive, an instruction or a circular made, given or issued by the Director-General~~ commits an offence and is liable on summary conviction to a fine of not less than thirty thousand penalty units and not more than two hundred thousand penalty units or to a term of imprisonment of not less than five years and not more than twenty years, or to both.

(7) A Police Officer who reasonably believes that a person has committed an offence under this Act or under an Executive Instrument or the Directives may require that person to furnish evidence of identity and take appropriate action.

(8) A person shall not

- (a) operate in civil aviation, a civil aircraft for which an approval to conduct that operation is not in effect or in violation of the terms of that approval;

- (b) serve in a capacity as an airman in connection with a civil aircraft, aircraft engine, propeller or appliance used or intended for use in civil aviation without an airman certificate authorising that person to serve in that capacity, or in violation of any of the terms, conditions or limitation of that certificate, or in violation of an order or the Directives issued under this Act;
- (c) employ for service, in connection with a civil aircraft used in civil aviation, an airman who does not have an airman certificate authorising that person to serve in the capacity for which that person is employed;
- (d) operate as an air operator without an air operator certificate, or in violation of the terms of that certificate;
- (e) operate an aircraft in civil aviation in violation of a provision of this Act or of the Directives or of a certificate issued by the Director-General under this Act;
- (f) while holding a certificate issued to a school or repair station as provided in this Act, violate a term, condition or limitation of that certificate, or violate a provision of this Act or the Directives relating to the holder of that certificate;
- (g) undertake an aircraft operation that would cause imminent danger to persons or property on the ground;
- (h) obstruct, interfere with, destroy, steal or cause damage to a communication, navigation, surveillance system, instrument, cable or any part of the systems or instruments used in civil aviation; or
- (i) fly an aircraft into the airspace of the Republic without the requisite permit or approval.

(9) A person who contravenes a provision specified under subsection (8) commits an offence and is liable on summary conviction to a fine of not less than one hundred thousand penalty units and not more than three hundred thousand penalty units or to a term of imprisonment of not less than ten years and not more than thirty years, or to both.

(10) A person shall not use a substance or a weapon against another person at an airport which is likely to cause injury or death.

(11) A person who contravenes subsection (10) commits an offence and is liable on summary conviction to a fine of not less than thirty thousand penalty units and not more than three hundred thousand penalty units or to a term of imprisonment of not less than ten years and not more than thirty years, or to both.

Execution against assets of the Authority

58. (1) In an action against the Authority, an execution or attachment process shall not be issued against the assets of the Authority except a garnishee process.

(2) Any sum of money which may be awarded against the Authority shall, subject to the direction of a competent court, be paid from the funds of the Authority.

Compelling witnesses to testify

59. (1) For the purposes of this Act, the Director-General shall have the power to compel

(a) a witness to appear and testify before a committee, panel, any employee, Aviation Safety Inspector or Aviation Security Inspector investigating any safety or security issue, investigation of an incident or any matter relating to the functions of the Authority; or

(b) a person to produce books, papers or documents required by a committee, panel, any employee, Aviation Safety Inspector or Aviation Security Inspector investigating any safety or security issue, the investigation of any incident or any matters relating to the functions of the Authority.

(2) A person who refuses to appear to testify or produce relevant books, papers or documents relating to a matter under investigation commits an offence and is liable on summary conviction to a fine of not more than six hundred penalty units or, to a term of imprisonment of not more than three months, or to both.

Demolition of unauthorised structures

60. (1) A person shall not erect or construct a structure close to the following without the authorisation of the Director-General in writing:

(a) an aerodrome;

- (b) an approach zone;
- (c) a transitional zone;
- (d) a horizontal zone;
- (e) a conical zone;
- (f) a clear zone; or
- (g) an accidental potential zone.

(2) A person shall not build within a radius of one thousand meters from proposed or existing sites for installation of aviation communication, navigation and surveillance equipment without an aeronautical study and approval from the Director-General in writing.

(3) The Authority shall have the power to cause the demolition of any unauthorised structure built close to any communication, navigation or surveillance equipment or that impedes the safety of air navigation.

(4) The demolishing of a structure which contravenes subsection (1) or (2) shall be without notice and the cost of the demolition paid by the person.

Right of access for inspection

61. (1) The Director-General shall have uninterrupted, unrestricted and unlimited access to civil aircraft wherever the aircraft is operated within Ghana for purposes of ensuring that the aircraft is airworthy and is being operated in accordance with this Act, Directives, Circulars and Instructions issued under this Act.

(2) The Director-General shall have uninterrupted, unrestricted and unlimited access to any civil aircraft registered in Ghana wherever that aircraft is operated in the world for purposes of ensuring that the aircraft is airworthy and is being operated in accordance with this Act, Directives, Circulars and Instructions issued under this Act.

(3) The Director-General shall have uninterrupted, unrestricted and unlimited access to operations by an aerodrome operator, air navigation service provider, air operator, approved maintenance organisation, approved training organisation or other allied service provider, to any place and at any time to conduct any test or inspection in order to determine whether the operations of the aerodrome operator, air

navigation service provider, air operator, approved maintenance organisation, approved training organisation or other allied service provider are conducted in accordance with this Act, Directives, Circulars and Instructions issued under this Act.

(4) The Director-General shall have uninterrupted, unrestricted and unlimited access to

- (a) all civil aviation personnel documentation,
- (b) documents,
- (c) an aircraft,
- (d) an aerodrome,
- (e) aviation facilities and equipment,
- (f) air navigation facilities, workshops and ramps,
- (g) offices of an air operator,
- (h) cargo handling areas,
- (i) flight catering facilities,
- (j) hangars, and
- (k) other allied service providers,

to inspect an aircraft, aerodromes, aircraft manufacturers and maintenance facilities or organisations, training facilities including simulators, fuel storage facilities and other appliances and service providers offering services designed for use in air transport, as may be necessary to enable the Director-General determine the issuance of a certificate of registration or granting of approval to

- (l) the aircraft,
- (m) the aircraft manufacturer,
- (n) the air navigation service provider,
- (o) the aerodrome operator,
- (p) the maintenance facility or organisation, or
- (q) other applicable appliances for the safety oversight functions of the Authority.

(5) The Director-General shall have uninterrupted, unrestricted and unlimited access to aircraft and aviation facilities, and to access and inspect aviation documentation for the performance of aviation security functions and duties including

- (a) entering any land, facility or building at any aerodrome for the purpose of conducting security oversight activities, or land outside an aerodrome occupied for business purposes

- connected with an aerodrome or aircraft operator, including facilities of regulated agents, known consignors, regulated suppliers and known suppliers of in-flight and airport supplies;
- (b) entering any aircraft registered or operating in Ghana for the purpose of conducting quality control activities;
 - (c) requiring an aircraft operator, aerodrome operator or occupier of land outside the aerodrome used for business purposes connected with the aerodrome to provide information relevant to any audit, inspection, test or investigation;
 - (d) obtaining access to relevant security documentation and records;
 - (e) interviewing any person for the purpose of assessing the standard of security or the implementation of security procedures;
 - (f) inspecting and testing the effectiveness of security measures and procedures and performance of security equipment; and
 - (g) taking into an airport, airside area or any designated Security Restricted Area, and use any equipment necessary to carry out their duties, including radios, cameras, recording devices, both audio and video, and specially authorised restricted or prohibited items, such as replica weapons or simulated explosive devices.
-

Prevention of flight

62. (1) The Director-General may direct the operator or crew member of a civil aircraft not to operate the aircraft

- (a) where the aircraft is found by the Authority not to be airworthy;
- (b) where the airman is not qualified, or physically or mentally capable for the flight;
- (c) where the operation would cause imminent danger to persons or property on the ground;
- (d) where the operation is not authorised;
- (e) where the required documentation is not on board the flight; or
- (f) for any other safety or security reasons specified by the Director-General.

(2) The Director-General may take steps as are necessary directly or through an established process to detain an aircraft or a crew member under subsection (1).

Charge on an aircraft

63. The Authority shall have a first charge on an aircraft in respect of unpaid charges owed to the Authority, for which purpose the Authority may detain the aircraft.

Request for information

64. (1) For the effective and efficient performance of the functions of the Authority under this Act, the Authority may request from any person or institution, information relating to the number of flights, passenger movement numbers, tonnage of air cargo, resolution of passenger complaints and any other subject that the Director-General may direct.

(2) A publication for statistical purpose or information obtained under subsection (1) shall not include personal data.

(3) A person who fails to supply information requested under subsection (1) commits an offence and is liable on summary conviction to a fine of not more than six hundred penalty units or to a term of imprisonment of not more than three months, or to both and in the case of a continuing offence, to a further fine of not more than two hundred penalty units for each day on which the offence continues.

Protection of data

65. Despite paragraph (a) of subsection (1) of section 60 of the Data Protection Act, 2012 (Act 843), the provisions of Act 843 apply to the processing of

- (a) Advanced Passenger Information; and
- (b) Passenger Name Record Data.

Disclosure of aviation safety data and safety information

66. (1) A person shall not disclose safety data or safety information and related sources of the safety data and safety information

- (a) for purposes of
 - (i) disciplinary proceedings,
 - (ii) civil proceedings,
 - (iii) administrative proceedings, or
 - (iv) criminal proceedings,
- against an employee, operational personnel or an organisation;

- (b) to the general public; or
 - (c) for any other purpose, other than maintaining or improving safety.
- (2) Subsection (1) does not apply, where the person,
 - (a) determines that there are facts and circumstances which reasonably indicate that the occurrence may have been caused by an act or omission considered, in accordance with laws of Ghana, to be conduct which constitutes gross negligence, wilful misconduct or criminal activity; or
 - (b) after a review of the safety data or safety information, determines that the
 - (i) disclosure of the safety data or safety information is necessary for the proper administration of justice, or
 - (ii) disclosure of the safety data or safety information is necessary for maintaining or improving safety, and the benefits of the disclosure of the safety data or safety information outweigh the adverse domestic and international impact that the disclosure is likely to have on the future collection and availability of the safety data or safety information.
- (3) For purposes of this section,
 - “competent authority” means a judicial, regulatory or administrative body which has the discretion to determine the application of subsections (1) and (2); and
 - “person” includes a competent authority.

Power to prosecute

67. Subject to article 88 of the Constitution and section 56 of the Criminal and Other Offences (Procedure) Act, 1960 (Act 30), the Authority shall initiate and undertake the prosecution, in the name of the Authority, of a person who commits an offence under this Act or under Directives, Instructions or Circulars made under this Act.

Service of documents

68. A document may be served on the Authority by serving the document on

- (a) the Director-General;
- (b) the secretary of the Board; or
- (c) by sending the document by registered post to the Director-General or the secretary of the Board.

Protection from liability

69. An action shall not lie against

- (a) an officer;
- (b) an employee; or
- (c) a person designated by the Director-General to perform, a safety oversight function or task

of the Authority in the discharge of a duty, exercises of a power or anything done or omitted to be done in good faith in pursuance of the object of this Act.

Property of Authority as public property

70. Property of the Authority is public property.

Fees

71. The Authority shall charge fees for services provided by the Authority in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2022 (Act 1080).

Administrative penalties

72. The Authority may impose administrative penalties of not less than ten thousand penalty units and not more than thirty thousand penalty units in the first instance in respect of offences specified under this Act.

Regulations

73. The Minister may, by legislative instrument, make Regulations

- (a) for the control or regulation of civil aviation matters;
- (b) to impose penalties for an act committed under this Act where a specific penalty has not been provided for; and
- (c) generally, for the effective and efficient implementation of this Act.

Interpretation

74. In this Act, unless the context otherwise requires,

“accident” means an occurrence associated with the operation of an aircraft which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until the time it comes to a rest at the end of the flight and the primary propulsion system is shut down, in which

- (a) a person is fatally or seriously injured as a result of being in the aircraft, or in direct contact with any part of the aircraft, including parts which have become detached from the aircraft, or direct exposure to jet blast, except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or
- (b) the aircraft sustains damage or structural failure ~~which adversely affects the structural strength,~~ performance or flight characteristics of the aircraft, and would normally require major repair or replacement of the affected component, except for engine failure or damage, when the damage is limited to a single engine including its cowlings or accessories, to propellers, wing tips, antennas, probes, vanes, tires, brakes, wheels, fairings, panels, landing gear doors, windscreens, the aircraft skin, including as small dents or puncture holes, or for minor damages to main rotor blades, tail rotor blades, landing gear, and those resulting from hail or bird strike, including holes in the radome; or
- (c) the aircraft is missing or is completely inaccessible;

- “accident potential zone” means an area within five thousand feet of the approach or departure end of a runway or in proximity to an airport in which aircraft may manoeuvre after take-off or before landing, and which is subject to the greatest potential to crash into a structure or the ground;
- “Accra Flight Information Region” means the limits of the Accra Flight Information Region which extends from 1100N 00300W to 1100N 00345E then along the Benin/Nigeria border to 0544N 00245E to 0200N 00635E to 0410S 00635E to 0552S 00635E to 0932S 00300W to 0152S 00300W to 0441N 00300W and back to 1100N 00300W;
- “Advanced Passenger Information” means an electronic communications system whereby passenger data elements are collected and transmitted by air carriers to border control agencies prior to flight departure or arrival and made available on the primary line at the border crossing point;
- “aerodrome” means a defined area on land or water including any buildings, installations and equipment intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft;
- “aerodrome safeguarding” means a process undertaken to ensure that any developments or activities taking place within the vicinity of the aerodrome do not adversely affect the safe operation of aircraft landing or departing;
- “Air Navigation Plan” means a strategic document to drive the evolution of the air navigation system in line with the Manual on Air Global Air Navigation Plan (Doc 9750), Traffic Management System Requirements (Doc 9882) and other related documents;
- “air navigation service provider” means an entity that provides air navigation services;
- “air navigation services” mean services provided to air traffic during all phases of operations including
- (a) air traffic management;
 - (b) communications, navigation and surveillance systems;

- (c) meteorological services for air navigation;
- (d) search and rescue;
- (e) instrument flight procedure design;
- (f) cartography;
- (g) aeronautical information services; and
- (h) aeronautical information management;

“air traffic safety electronic personnel” mean trained and qualified electronics and electricals engineering personnel responsible for the installation, operation and maintenance of communication, navigation and surveillance systems, air traffic management systems and associated facilities;

“air transport” means services available to the general public for the transportation of passengers, mail or freight including aerial work and all forms of remotely piloted operations;

“air transport services” mean a service for the carriage by air of passengers, mail or any other freight;

“air transport service providers” include airports, air navigation service providers, airport ground passenger and cargo handling companies, travel agents, suppliers of computer reservations systems or global distribution systems, and all other categories of services provided to airlines directly at the airports;

“aircraft” means a machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the surface of the earth;

“airport” means an airfield where an aircraft lands and takes off usually facilitating passengers, goods and customs;

“allied aviation services” mean services rendered in support of the operators of aircraft, aerodromes and such ancillary services that facilitate the business of air transport;

“approach zone” means all the land which lies directly under an imaginary approach surface longitudinally centred on the extended centre line at each end of a runway;

“Auditor-General” includes an auditor appointed by the Auditor-General;

- “Authority” means the Ghana Civil Aviation Authority established under section 1;
- “Chicago Convention” means the Convention on International Civil Aviation signed at Chicago on the 7th day of December, 1944;
- “clear zone” means a square area extending four hundred and sixty metres on either side of the centreline of the runway and extending from the runway threshold to nine hundred and twenty metres towards the approach area;
- “conical zone” means all the land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of twenty to one for a horizontal distance of four thousand feet as measured radially outward from the periphery of the horizontal surface;
- “country or territory” includes the territorial waters adjacent to that country or territory;
- “Court” means a court of competent jurisdiction;
- “Directives” mean legally binding instructions issued by the Director-General under this Act to domesticate and ensure compliance with the standards and recommended practices of the Organisation as well as other matters related to civil aviation;
- “Director-General” means the Director-General of the Ghana Civil Aviation Authority appointed under section 22;
- “economic regulation” means an effective and efficient measure aimed at the elimination of likely monopoly of airports and Air Navigation Service Providers, whilst promoting a healthy competition amongst air operators and the protection of the interest of users of the aviation industry;
- “facilitation” means the efficient management of the necessary control process, with the objective of expediting the clearance of persons or goods and preventing unnecessary operational delays;

“Flight Information Region” means an airspace of defined dimensions within which flight information service and alerting service are provided;

“goods” include a mail and an animal;

“horizontal zone” means all the land which lies directly under an imaginary horizontal surface of

(a) one hundred and fifty feet above the established airport elevation, or

(b) a height of 1,521.1 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the centre of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs where the radius of each arc is six thousand feet for both runways;

“incident” means an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation;

“loss or damage” includes in relation to persons, loss of life and personal injury;

“Minister” means the Minister responsible for civil aviation;

“Ministry” means the Ministry responsible for civil aviation;

“National Air Transport Facilitation Programme” means a framework established and implemented by the Director-General of the Authority to maximise the efficiency of border clearance formalities, optimisation of aircraft, crew, passenger and cargo flows through airports and to improve customer service, while maintaining high quality security and effective law enforcement pursuant to Chapter 8 and Annex 9 of the Chicago Convention;

“National Civil Aviation Security Programme” means the written national civil aviation security programme established by the Director-General to safeguard civil aviation operations against acts of unlawful interference pursuant to Chapter 3 and Annex 17 of the Chicago Convention;

- “Organisation” means the International Civil Aviation Organisation;
- “Passenger Name Record Data” means information provided by passengers and collected by carriers at the time of ticket booking including information on travel itinerary, ticket information, contact details and means of payment;
- “purpose of civil aviation” includes the purposes connected with air navigation except for military purposes;
- “remotely piloted aircraft system” means a remotely piloted aircraft, its associated remote pilot station, the required command and control links and any other components as specified in the type design and also referred to as unmanned aircraft system;
- “Republic” means the Republic of Ghana;
- “Rules of Court” means the Rules of Court made by the Rules of Court Committee constituted under article 157 of the Constitution;
- “safety data” means a defined set of facts or set of safety values collected from various aviation-related sources, which is used to maintain or improve safety;
- “safety management” means a proactive way to pursue the mitigation of safety risks and improve safety performance which when effectively implemented can lead to a documented, process-based approach to safety, as well as a better understanding of safety-related interdependencies and relationships;
- “security restricted area” means those areas of the airside of an airport which are identified as priority risk areas where in addition to access control, other security controls are applied;
- “service provider” means an organisation which provides aviation products or services and encompasses
- (a) approved training organisations;
 - (b) aircraft operators;
 - (c) approved maintenance organisations;

- (d) organisations responsible for type design or manufacture of aircraft, engines or propellers;
- (e) air traffic service providers; and
- (f) other air navigation service providers and aerodrome operators;

“State Safety Programme” means an integrated set of regulations and activities aimed at improving safety;

“Technical Instructions” mean the instructions for the safe transport of dangerous goods by air which are approved and issued periodically in accordance with the procedure established by the Council of the International Civil Aviation Organisation; and

“transitional zone” means all the land which lies directly under an imaginary surface extending upward and outward at right angles to the runway centre line and extended at a slope of seven to one from the sides of the primary surfaces and from the sides of the approach surfaces until the runways intersect a horizontal surface or the conical surface.

Repeals and savings

75. (1) The following enactments are repealed:

- (a) the Ghana Civil Aviation Act, 2004 (Act 678);
- (b) the Ghana Civil Aviation (Amendment) Act, 2016 (Act 906); and
- (c) the Ghana Civil Aviation (Amendment) Act, 2019 (Act 985).

(2) Despite the repeal of the enactments specified in subsection (1), Regulations, orders, directions, appointments or any other act lawfully made or done under the repealed enactments and in force immediately before the coming into force of this Act shall, subject to modifications made by this Act to the Regulations, orders, directions, appointments and lawful acts, be considered to have been made or done under the corresponding provisions of this Act and shall until reviewed, cancelled, withdrawn or terminated continue to have effect.

(3) Directives, Instructions and Circulars issued by the Director-General under the Ghana Civil Aviation Act, 2004 (Act 678)

and existing immediately before the entry into force of this Act, shall, on the entry into force of this Act, be deemed to be Directives, Instructions and Circulars issued under this Act.

(4) This Act shall not affect Act 678 in the operation of offences committed, penalties imposed or proceedings commenced before the coming into force of this Act.

Transitional provisions

76. (1) The rights, assets and liabilities of, and property vested in the Ghana Civil Aviation Authority established under the Ghana Civil Aviation Act, 2004 (Act 678) and persons employed by the Ghana Civil Aviation Authority established under the Ghana Civil Aviation Act, 2004 (Act 678) immediately before the coming into force of this Act are transferred to the Authority established under this Act.

(2) Proceedings taken by or against the Ghana Civil Aviation Authority established under the Ghana Civil Aviation Act, 2004 (Act 678) may be continued by or against the Authority established under this Act.

(3) A contract subsisting between the Ghana Civil Aviation Authority established under the Ghana Civil Aviation Act, 2004 (Act 678) and any other person in respect of the regulatory functions of the Ghana Civil Aviation Authority established under the Ghana Civil Aviation Act, 2004 (Act 678) and in force immediately before the coming into force of this Act shall subsist between the Authority established under this Act and that other person.

(4) Any moneys in a bank account held by or on behalf of the Ghana Civil Aviation Authority established under the Ghana Civil Aviation Act, 2004 (Act 678) before the coming into force of this Act, are transferred to the Authority established under this Act.

(5) Until the Air Navigation Services Agency established under the Air Navigation Services Agency Act, 2020 (Act 1051) is operationalised, the Authority established under this Act shall continue to

- (a) provide air navigation services; and
- (b) collect the moneys specified under paragraphs (b), (c) and (d) of subsection (1) of section 23 of the Air Navigation

Services Agency Act, 2020 (Act 1051).

(6) An employee of the Authority established under this Act who remains in the employment of the Authority after the operationalisation under subsection (5) shall continue in the employment of the Authority, on terms and conditions that are not less favourable in aggregate than the terms and conditions enjoyed by that employee under the Authority immediately preceding the operationalisation.

FIRST SCHEDULE

(section 36(1))

**PROTOCOL TO AMEND THE CONVENTION ON OFFENCES
AND CERTAIN OTHER ACTS COMMITTED ON BOARD
AIRCRAFT**

THE CONTRACTING STATES TO THIS PROTOCOL,

NOTING that States have expressed their concern about the escalation of the severity and frequency of unruly behaviour on board aircraft that may jeopardize the safety of the aircraft or of persons or property therein or jeopardize good order and discipline on board;

RECOGNIZING the desire of many States to assist each other in curbing unruly behaviour and restoring good order and discipline on board aircraft;

BELIEVING that in order to address these concerns, it is necessary to adopt provisions to amend those of the Convention on Offences and Certain Other Acts Committed on Board Aircraft signed at Tokyo on 14 September 1963;

HAVE AGREED AS FOLLOWS:

Article I

This Protocol amends the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963 (hereinafter referred to as “the Convention”).

Article II

Article 1, paragraph 3, of the Convention shall be replaced by the following:

“Article 1

3. For the purposes of this Convention:

- (a) an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following

embarkation until the moment when any such door is opened for disembarkation; in the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board; and

- (b) when the State of the operator is not the same as the State of registration, the term “the State of registration”, as used in Articles 4, 5 and 13 of the Convention shall be deemed to be the State of the operator.”

Article III

Article 2 of the Convention shall be replaced by the following:

“Article 2

Without prejudice to the provisions of Article 4 and except when the safety of the aircraft or of persons or property on board so requires, no provision of this Convention shall be interpreted as authorizing or requiring any action in respect of offences against penal laws of a political nature or those based on discrimination on any ground such as race, religion, nationality, ethnic origin, political opinion or gender.”

Article IV

Article 3 of the Convention shall be replaced by the following:

“Article 3

1. The State of registration of the aircraft is competent to exercise jurisdiction over offences and acts committed on board.

1 bis. A State is also competent to exercise jurisdiction over offences and acts committed on board:

- (a) as the State of landing, when the aircraft on board which the offence or act is committed lands in its territory with the alleged offender still on board; and
- (b) as the State of the operator, when the offence or act is committed on board an aircraft leased without crew to a lessee whose principal place of business or, if the lessee has no such place of business, whose permanent residence, is in that State.

2. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction as the State of registration over offences committed on board aircraft registered in such State.

2 bis. Each Contracting State shall also take such measures as may be necessary to establish its jurisdiction over offences committed on board aircraft in the following cases:

(a) as the State of landing, when:

(i) the aircraft on board which the offence is committed has its last point of take-off or next point of intended landing within its territory, and the aircraft subsequently lands in its territory with the alleged offender still on board; and

(ii) the safety of the aircraft or of persons or property therein, or good order and discipline on board, is jeopardized;

(b) as the State of the operator, when the offence is committed on board an aircraft leased without crew to a lessee whose principal place of business or, if the lessee has no such place of business, whose permanent residence, is in that State.

2 ter. In exercising its jurisdiction as the State of landing, a State shall consider whether the offence in question is an offence in the State of the operator.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.”

Article V

The following shall be added as Article 3 bis of the Convention:

“Article 3 bis

If a Contracting State, exercising its jurisdiction under Article 3, has been notified or has otherwise learned that one or more other Contracting States are conducting an investigation, prosecution or judicial proceeding in respect of the same offences or acts, that Contracting State shall, as appropriate, consult those other Contracting States with a view to co-ordinating their actions. The obligations in this Article are without prejudice to the obligations of a Contracting State under Article 13.”

Article VI

Article 5, paragraph 2, of the Convention shall be deleted.

Article VII

Article 6 of the Convention shall be replaced by the following:

“Article 6

1. The aircraft commander may, when he has
 - (c) to enable him to deliver such person to competent authorities or to disembark him in accordance with the provisions of this Chapter.
2. The aircraft commander may require or authorize the assistance of other crew members and may request or authorise, but not require, the assistance of in-flight security officers or passengers to restrain any person whom he is entitled to restrain. Any crew member or passenger may also take reasonable preventive measures without such authorisation when he has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft, or of persons or property therein.
3. ~~An in-flight security officer deployed pursuant to a bilateral or multilateral agreement or arrangement between the relevant Contracting States may take reasonable preventive measures without such authorisation when he has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft or persons therein from an act of unlawful interference, and, if the agreement or arrangement so allows, from the commission of serious offences.~~
4. Nothing in this Convention shall be deemed to create an obligation for a Contracting State to establish an in-flight security officer programme or to agree to a bilateral or multilateral agreement or arrangement authorising foreign in-flight security officers to operate in its territory.”

Article VIII

Article 9 of the Convention shall be replaced by the following:

“Article 9

1. The aircraft commander may deliver to the competent authorities of any Contracting State in the territory of which the aircraft lands any person who he has reasonable grounds to believe has committed on board the aircraft an act which, in his opinion, is a serious offence.
2. The aircraft commander shall as soon as practicable and if possible before landing in the territory of a Contracting State with a person on board whom the aircraft commander intends to deliver in accordance with the preceding paragraph, notify the authorities of such State of his intention to deliver such person and the reasons therefor.
3. The aircraft commander shall furnish the authorities to whom any suspected offender is delivered in accordance with the provisions of this Article with evidence and information which are lawfully in his possession.”

Article IX

Article 10 of the Convention shall be replaced by the following:

“Article 10

For actions taken in accordance with this Convention, neither the aircraft commander, any other member of the crew, any passenger, any in-flight security officer, the owner or operator of the aircraft, nor the person on whose behalf the flight was performed shall be held responsible in any proceeding on account of the treatment undergone by the person against whom the actions were taken.”

Article X

The following shall be added as Article 15 bis of the Convention:

“Article 15 bis

1. Each Contracting State is encouraged to take such measures as may be necessary to initiate appropriate criminal, administrative or any other forms of legal proceedings against any person who commits

on board an aircraft an offence or act referred to in Article 1, paragraph 1, in particular:

- (a) physical assault or a threat to commit such assault against a crew member; or
 - (b) refusal to follow a lawful instruction given by or on behalf of the aircraft commander for the purpose of protecting the safety of the aircraft or of persons or property therein.
2. Nothing in this Convention shall affect the right of each Contracting State to introduce or maintain in its national legislation appropriate measures in order to punish unruly and disruptive acts committed on board."

Article XI

Article 16, paragraph 1, of the Convention shall be replaced by the following:

"Article 16

1. Offences committed on board aircraft shall be treated, for the purpose of extradition between the Contracting States, as if they had been committed not only in the place in which they occurred but also in the territories of the Contracting States required to establish their jurisdiction in accordance with paragraphs 2 and 2 bis of Article 3."

Article XII

Article 17 of the Convention shall be replaced by the following:

"Article 17

1. In taking any measures for investigation or arrest or otherwise exercising jurisdiction in connection with any offence committed on board an aircraft, the Contracting States shall pay due regard to the safety and other interests of air navigation and shall so act as to avoid unnecessary delay of the aircraft, passengers, crew or cargo.
2. Each Contracting State, when fulfilling its obligations, or exercising a permitted discretion under this Convention, shall act in accordance with the obligations and responsibilities of States under international law. In this respect, each Contracting State shall have regard for the principles of due process and fair treatment."

Article XIII

The following shall be added as Article 18 bis of the Convention:

“Article 18 bis

Nothing in this Convention shall preclude any right to seek the recovery, under national law, of damages incurred, from a person disembarked or delivered pursuant to Article 8 or 9 respectively.”

Article XIV

The texts of the Convention in the Arabic, Chinese and Russian languages annexed to this Protocol shall, together with the texts of the Convention in the English, French, and Spanish languages, constitute texts equally authentic in the six languages.

Article XV

As between the Contracting States to this Protocol, the Convention and this Protocol shall be read and interpreted together as one single instrument and shall be known as the Tokyo Convention as amended by the Montréal Protocol, 2014.

Article XVI

This Protocol shall be open for signature in Montréal on 4 April 2014 by States participating in the International Air Law Conference held at Montréal from 26 March to 4 April 2014. After 4 April 2014, this Protocol shall be open to all States for signature at the Headquarters of the International Civil Aviation Organisation in Montréal until it enters into force in accordance with Article XVIII.

Article XVII

1. This Protocol is subject to ratification, acceptance or approval by the signatory States. The instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the International Civil Aviation Organisation, who is hereby designated as the Depositary.
2. Any State which does not ratify, accept or approve this Protocol in accordance with paragraph 1 of this Article may accede to it at any time. The instruments of accession shall be deposited with the Depositary.

3. Ratification, acceptance, approval or accession to this Protocol by any State which is not a Contracting State to the Convention shall have the effect of ratification, acceptance, approval or accession to the Tokyo Convention as amended by the Montréal Protocol, 2014.

Article XVIII

1. This Protocol shall enter into force on the first day of the second month following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Depositary.
2. For each State ratifying, accepting, approving or acceding to this Protocol after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, this Protocol shall enter into force on the first day of the second month following the date of the deposit by such State of its instrument of ratification, acceptance, approval or accession.
3. As soon as this Protocol enters into force, it shall be registered with the United Nations by the Depositary.

Article XIX

1. Any Contracting State may denounce this Protocol by written notification to the Depositary.
2. Denunciation shall take effect one year following the date on which notification is received by the Depositary.

Article XX

The Depositary shall promptly notify all signatory and Contracting States to this Protocol of the date of each signature, the date of deposit of each instrument of ratification, acceptance, approval or accession, the date of coming into force of this Protocol, and other relevant information.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE at Montréal on the fourth day of April of the year Two Thousand and Fourteen in the English, Arabic, Chinese, French, Russian and

Spanish languages, all authority of the President of the Conference within ninety days hereof as to the conformity of the texts with one another. This Protocol shall be deposited with the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Depositary to all Contracting States to this Protocol.

SECOND SCHEDULE

(sections 36(2) and 36(3))

**CONVENTION FOR THE UNIFICATION OF CERTAIN RULES
FOR INTERNATIONAL CARRIAGE BY AIR**

THE STATES PARTIES TO THIS CONVENTION

RECOGNISING the significant contribution of the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed in Warsaw on 12 October 1929, hereinafter referred to as the “Warsaw Convention”, and other related instruments to the harmonisation of private international air law;

RECOGNISING the need to modernize and consolidate the Warsaw Convention and related instruments;

RECOGNISING the importance of ensuring protection of the interests of consumers in international carriage by air and the need for equitable compensation based on the principle of restitution;

REAFFIRMING the desirability of an orderly development of international air transport operations and the smooth flow of passengers, baggage and cargo in accordance with the principles and objectives of the Convention on International Civil Aviation, done at Chicago on 7 December 1944;

CONVINCED that collective State action for further harmonization and codification of certain rules governing international carriage by air through a new Convention is the most adequate means of achieving an equitable balance of interests;

HAVE AGREED AS FOLLOWS:

CHAPTER I

General Provisions

Article 1 - Scope of Application

1. This Convention applies to all international carriage of persons, baggage or cargo performed by aircraft for reward. It applies equally

to gratuitous carriage by aircraft performed by an air transport undertaking.

2. For the purposes of this Convention, the expression *international carriage* means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two States Parties, or within the territory of a single State Party if there is an agreed stopping place within the territory of another State, even if that State is not a State Party. Carriage between two points within the territory of a single State Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of this Convention.
3. Carriage to be performed by several successive carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.
4. This Convention applies also to carriage as set out in Chapter V, subject to the terms contained therein.

Article 2 -

Carriage Performed by State and Carriage of Postal Items

- 1 This Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.
2. In the carriage of postal items, the carrier shall be liable only to the relevant postal administration in accordance with the rules applicable to the relationship between the carriers and the postal administrations.

3. Except as provided in paragraph 2 of this Article, the provisions of this Convention shall not apply to the carriage of postal items.

CHAPTER II

Documentation and Duties of the Parties Relating to the Carriage of Passengers, Baggage and Cargo

Article 3 -Passengers and Baggage

1. In respect of carriage of passengers, an individual or collective document of carriage shall be delivered containing:
 - (a) an indication of the places of departure and destination;
 - (b) if the places of departure and destination are within the territory of a single State Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place.
2. Any other means which preserves the information indicated in paragraph 1 may be substituted for the delivery of the document referred to in that paragraph. If any such other means is used, the carrier shall offer to deliver to the passenger a written statement of the information so preserved.
3. The carrier shall deliver to the passenger a baggage identification tag for each piece of checked baggage.
4. The passenger shall be given written notice to the effect that where this Convention is applicable it governs and may limit the liability of carriers in respect of death or injury and for destruction or loss of, or damage to, baggage, and for delay.
5. Non-compliance with the provisions of the foregoing paragraphs shall not affect the existence or the validity of the contract of carriage, which shall, nonetheless, be subject to the rules of this Convention including those relating to limitation of liability.

Article 4 - Cargo

1. In respect of the carriage of cargo, an air waybill shall be delivered.
2. Any other means which preserves a record of the carriage to be performed may be substituted for the delivery of an air waybill. If such other means are used, the carrier shall, if so requested by the consignor, deliver to the consignor a cargo receipt permitting identification of the consignment and access to the information contained in the record preserved by such other means.

Article 5 - Contents of Air Waybill or Cargo Receipt

The air waybill or the cargo receipt shall include:

- (a) an indication of the places of departure and destination;
- (b) if the places of departure and destination are within the territory of a single State Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place; and
- (c) an indication of the weight of the consignment.

Article 6 - Document Relating to the Nature of the Cargo

The consignor may be required, if necessary, to meet the formalities of customs, police and similar public authorities, to deliver a document indicating the nature of the cargo. This provision creates for the carrier no duty, obligation or liability resulting therefrom.

Article 7 - Description of Air Waybill

1. The air waybill shall be made out by the consignor in three original parts.
2. The first part shall be marked "for the carrier"; it shall be signed by the consignor. The second part shall be marked "for the consignee"; it shall be signed by the consignor and by the carrier. The third part

shall be signed by the carrier who shall hand it to the consignor after the cargo has been accepted.

3. The signature of the carrier and that of the consignor may be printed or stamped.
4. If, at the request of the consignor, the carrier makes out the air waybill, the carrier shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 8 - Documentation for Multiple Packages

When there is more than one package:

- (a) the carrier of cargo has the right to require the consignor to make out separate air waybills; and
- (b) the consignor has the right to require the carrier to deliver separate cargo receipts when the other means referred to in paragraph 2 of Article 4 are used.

Article 9 - Non-compliance with Documentary Requirements

Non-compliance with the provisions of Articles 4 to 8 shall not affect the existence or the validity of the contract of carriage, which shall, nonetheless, be subject to the rules of this Convention including those relating to limitation of liability.

Article 10 - Responsibility for Particulars of Documentation

1. The consignor is responsible for the correctness of the particulars and statements relating to the cargo inserted by it or on its behalf in the air waybill or furnished by it or on its behalf to the carrier for insertion in the cargo receipt or for insertion in the record preserved by the other means referred to in paragraph 2 of Article 4. The foregoing shall also apply where the person acting on behalf of the consignor is also the agent of the carrier.
2. The consignor shall indemnify the carrier against all damage suffered by it, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor or on its behalf.

3. Subject to the provisions of paragraphs 1 and 2 of this Article, the carrier shall indemnify the consignor against all damage suffered by it, or by any other person to whom the consignor is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements inserted by the carrier or on its behalf in the cargo receipt or in the record preserved by the other means referred to in paragraph 2 of Article 4.

Article 11 - Evidentiary Value of Documentation

1. The air waybill or the cargo receipt is *prima facie* evidence of the conclusion of the contract, of the acceptance of the cargo and of the conditions of carriage mentioned therein.
2. Any statements in the air waybill or the cargo receipt relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill or the cargo receipt to have been, checked by it in the presence of the consignor, or relate to the apparent condition of the cargo.

Article 12 - Right of Disposition of Cargo

1. Subject to its liability to carry out all its obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the airport of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee originally designated, or by requiring it to be returned to the airport of departure. The consignor must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and must reimburse any expenses occasioned by the exercise of this right.

2. If it is impossible to carry out the instructions of the consignor, the carrier must so inform the consignor forthwith.
3. If the carrier carries out the instructions of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill or the cargo receipt delivered to the latter, the carrier will be liable, without prejudice to its right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill or the cargo receipt.
4. The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the cargo, or cannot be communicated with, the consignor resumes its right of disposition.

Article 13 - Delivery of the Cargo

1. Except when the consignor has exercised its right under Article 12, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to deliver the cargo to it, on payment of the charges due and on complying with the conditions of carriage.
-
2. Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.
 3. If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to enforce against the carrier the rights which flow from the contract of carriage.

Article 14 - Enforcement of the Rights of Consignor and Consignee

The consignor and the consignee can respectively enforce all the rights given to them by Articles 12 and 13, each in its own name, whether it is acting in its own interest or in the interest of another, provided that it carries out the obligations imposed by the contract of carriage.

**Article 15 - Relations of Consignor and Consignee
or Mutual Relations of Third Parties**

1. Articles 12, 13 and 14 do not affect either the relations of the consignor and the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.
2. The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air waybill or the cargo receipt.

**Article 16 - Formalities of Customs, Police or Other Public
Authorities**

1. The consignor must furnish such information and such documents as are necessary to meet the formalities of customs, police and any other public authorities before the cargo can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier, its servants or agents.
2. The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

Chapter III

**Liability of the Carrier and Extent of
Compensation for Damage**

Article 17 - Death and Injury of Passengers - Damage to Baggage

1. The carrier is liable for damage sustained in case of death or bodily injury of a passenger upon condition only that the accident which caused the death or injury took place on board the aircraft or in the course of any of the operations of embarking or disembarking.
2. The carrier is liable for damage sustained in case of destruction or loss of, or of damage to, checked baggage upon condition only that the event which caused the destruction, loss or damage took place

on board the aircraft or during any period within which the checked baggage was in the charge of the carrier. However, the carrier is not liable if and to the extent that the damage resulted from the inherent defect, quality or vice of the baggage. In the case of unchecked baggage, including personal items, the carrier is liable if the damage resulted from its fault or that of its servants or agents.

3. If the carrier admits the loss of the checked baggage, or if the checked baggage has not arrived at the expiration of twenty-one days after the date on which it ought to have arrived, the passenger is entitled to enforce against the carrier the rights which flow from the contract of carriage.
4. Unless otherwise specified, in this Convention the term “baggage” means both checked baggage and unchecked baggage.

Article 18 - Damage to Cargo

1. The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, cargo upon condition only that the event which caused the damage so sustained took place during the carriage by air.
2. ~~However, the carrier is not liable if and to the extent it proves that~~ the destruction, or loss of, or damage to, the cargo resulted from one or more of the following:
 - (a) inherent defect, quality or vice of that cargo;
 - (b) defective packing of that cargo performed by a person other than the carrier or its servants or agents;
 - (c) an act of war or an armed conflict; or
 - (d) an act of public authority carried out in connection with the entry, exit or transit of the cargo.
3. The carriage by air within the meaning of paragraph 1 of this Article comprises the period during which the cargo is in the charge of the carrier.

4. The period of the carriage by air does not extend to any carriage by land, by sea or by inland waterway performed outside an airport. If, however, such carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air. If a carrier, without the consent of the consignor, substitutes carriage by another mode of transport for the whole or part of a carriage intended by the agreement between the parties to be carriage by air, such carriage by another mode of transport is deemed to be within the period of carriage by air.

Article 19 - Delay

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo. Nevertheless, the carrier shall not be liable for damage occasioned by delay if it proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures.

Article 20 - Exoneration

If the carrier proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from whom he or she derives his or her rights, the carrier shall be wholly or partly exonerated from its liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage. When by reason of death or injury of a passenger compensation is claimed by a person other than the passenger, the carrier shall likewise be wholly or partly exonerated from its liability to the extent that it proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of that passenger. This Article applies to all the liability provisions in this Convention, including paragraph I of Article 21.

Article 21 - Compensation in Case of Death or Injury of Passengers

1. For damages arising under paragraph 1 of Article 17 not exceeding 100 000 Special Drawing Rights for each passenger, the carrier shall not be able to exclude or limit its liability.
2. The carrier shall not be liable for damages arising under paragraph 1 of Article 17 to the extent that they exceed for each passenger 100 000 Special Drawing Rights if the carrier proves that:
 - (a) such damage was not due to the negligence or other wrongful act or omission of the carrier or its servants or agents; or
 - (b) such damage was solely due to the negligence or other wrongful act or omission of a third party.

Article 22 - Limits of Liability in Relation to Delay, Baggage and Cargo

1. In the case of damage caused by delay as specified in Article 19 in the carriage of persons, the liability of the carrier for each passenger is limited to 4150 Special Drawing Rights.
2. In the carriage of baggage, the liability of the carrier in the case of destruction, loss, damage or delay is limited to 1 000 Special Drawing Rights for each passenger unless the passenger has made, at the time when the checked baggage was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the passenger's actual interest in delivery at destination.
3. In the carriage of cargo, the liability of the carrier in the case of destruction, loss, damage or delay is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the

carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the consignor's actual interest in delivery at destination.

4. In the case of destruction, loss, damage or delay of part of the cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the destruction, loss, damage or delay of a part of the cargo, or of an object contained therein, affects the value of other packages covered by the same air waybill, or the same receipt or, if they were not issued, by the same record preserved by the other means referred to in paragraph 2 of Article 4, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.
5. The foregoing provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the carrier, its servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that such servant or agent was acting within the scope of its employment.
6. The limits prescribed in Article 21 and in this Article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff, including interest. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

Article 23 - Conversion of Monetary Units

1. The sums mentioned in terms of Special Drawing Right in this Convention shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgement. The value of a national currency, in terms of the Special Drawing Right, of a State Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgement, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a State Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that State.
2. Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 1 of this Article may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier prescribed in Article 21 is fixed at a sum of 1 500 000 monetary units per passenger in judicial proceedings in their territories; 62 500 monetary units per passenger with respect to paragraph 1 of Article 22; 15 000 monetary units per passenger with respect to paragraph 2 of Article 22; and 250 monetary units per kilogramme with respect to paragraph 3 of Article 22. This monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned.
3. The calculation mentioned in the last sentence of paragraph 1 of this Article and the conversion method mentioned in paragraph 2 of this Article shall be made in such manner as to express in the

national currency of the State Party as far as possible the same real value for the amounts in Articles 21 and 22 as would result from the application of the first three sentences of paragraph 1 of this Article. States Parties shall communicate to the depositary the manner of calculation pursuant to paragraph 1 of this Article, or the result of the conversion in paragraph 2 of this Article as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.

Article 24 – Review of Limits

1. Without prejudice to the provisions of Article 25 of this Convention and subject to paragraph 2 below, the limits of liability prescribed in Articles 21, 22 and 23 shall be reviewed by the Depositary at five-year intervals, the first such review to take place at the end of the fifth year following the date of entry into force of this Convention, or if the Convention does not enter into force within five years of the date it is first open for signature, within the first year of its entry into force, by reference to an inflation factor which corresponds to the accumulated rate of inflation since the previous revision or in the first instance since the date of entry into force of the Convention. The measure of the rate of inflation to be used in determining the inflation factor shall be the weighted average of the annual rates of increase or decrease in the Consumer Price Indices of the States whose currencies comprise the Special Drawing Right mentioned in paragraph 1 of Article 23.
2. If the review referred to in the preceding paragraph concludes that the inflation factor has exceeded 10 per cent, the Depositary shall notify States Parties of a revision of the limits of liability. Any such revision shall become effective six months after its notification to the States Parties. If within three months after its notification to the States Parties a majority of the States Parties register their disapproval, the revision shall not become effective and the

Depositary shall refer the matter to a meeting of the States Parties. The Depositary shall immediately notify all States Parties of the coming into force of any revision.

3. Notwithstanding paragraph 1 of this Article, the procedure referred to in paragraph 2 of this Article shall be applied at any time provided that one-third of the States Parties express a desire to that effect and upon condition that the inflation factor referred to in paragraph 1 has exceeded 30 per cent since the previous revision or since the date of entry into force of this Convention if there has been no previous revision. Subsequent reviews using the procedure described in paragraph 1 of this Article will take place at five-year intervals starting at the end of the fifth year following the date of the reviews under the present paragraph.

Article 25 – Stipulation on Limits

A carrier may stipulate that the contract of carriage shall be subject to higher limits of liability than those provided for in this Convention or to no limits of liability whatsoever.

Article 26 – Invalidity of Contractual Provisions

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

Article 27 – Freedom to Contract

Nothing contained in this Convention shall prevent the carrier from refusing to enter into any contract of carriage, from waiving any defences available under the Convention, or from laying down conditions which do not conflict with the provisions of this Convention.

Article 28 – Advance Payment

In the case of aircraft accidents resulting in death or injury of passengers, the carrier shall, if required by its national law, make advance payments without delay to a natural person or persons who are entitled to claim compensation in order to meet the immediate economic needs of such persons. Such advance payments shall not constitute a recognition of liability and may be offset against any amounts subsequently paid as damages by the carrier.

Article 29 - Basis of Claims

In the carriage of passengers, baggage and cargo, any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and such limits of liability as are set out in this Convention without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights. In any such action, punitive, exemplary or any other non-compensatory damages shall not be recoverable.

Article 30 - Servants, Agents - Aggregation of Claims

1. If an action is brought against a servant or agent of the carrier arising out of damage to which the Convention relates, such servant or agent, if they prove that they acted within the scope of their employment, shall be entitled to avail themselves of the conditions and limits of liability which the carrier itself is entitled to invoke under this Convention.
2. The aggregate of the amounts recoverable from the carrier, its servants and agents, in that case, shall not exceed the said limits.
3. Save in respect of the carriage of cargo, the provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

Article 31- Timely Notice of Complaints

1. Receipt by the person entitled to delivery of checked baggage or cargo without complaint is *prima facie* evidence that the same has been delivered in good condition and in accordance with the document of carriage or with the record preserved by the other means referred to in paragraph 2 of Article 3 and paragraph 2 of Article 4.
 2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within seven days from the date of receipt in the case of checked baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay, the complaint must be made at the latest within twenty-one days from the date on which the baggage or cargo have been placed at his or her disposal.
 3. Every complaint must be made in writing and given or dispatched within the times aforesaid.
 4. If no complaint is made within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on its part.
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Article 32 - Death of Person Liable

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his or her estate.

Article 33 - Jurisdiction

1. An action for damages must be brought, at the option of the plaintiff, in the territory of one of the States Parties, either before the court of the domicile of the carrier or of its principal place of business, or where it has a place of business through which the contract has been made or before the court at the place of destination.

2. In respect of damage resulting from the death or injury of a passenger, an action may be brought before one of the courts mentioned in paragraph I of this Article, or in the territory of a State Party in which at the time of the accident the passenger has his or her principal and permanent residence and to or from which the carrier operates services for the carriage of passengers by air, either on its own aircraft, or on another carrier's aircraft pursuant to a commercial agreement, and in which that carrier conducts its business of carriage of passengers by air from premises leased or owned by the carrier itself or by another carrier with which it has a commercial agreement.
- 3 For the purposes of paragraph 2,
 - (a) "commercial agreement" means an agreement, other than an agency agreement, made between carriers and relating to the provision of their joint services for carriage of passengers by air;
 - (b) "principal and permanent residence" means the one fixed and permanent abode of the passenger at the time of the accident. The nationality of the passenger shall not be the determining factor in this regard.
4. Questions of procedure shall be governed by the law of the court seised of the case.

Article 34 - Arbitration

1. Subject to the provisions of this Article, the parties to the contract of carriage for cargo may stipulate that any dispute relating to the liability of the carrier under this Convention shall be settled by arbitration. Such agreement shall be in writing.
2. The arbitration proceedings shall, at the option of the claimant, take place within one of the jurisdictions referred to in Article 33.

3. The arbitrator or arbitration tribunal shall apply the provisions of this Convention.
4. The provisions of paragraphs 2 and 3 of this Article shall be deemed to be part of every arbitration clause or agreement, and any term of such clause or agreement which is inconsistent therewith shall be null and void.

Article 35 - Limitation of Actions

1. The right to damages shall be extinguished if an action is not brought within a period of two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.
2. The method of calculating that period shall be determined by the law of the court seised of the case.

Article 36 - Successive Carriage

1. In the case of carriage to be performed by various successive carriers and falling within the definition set out in paragraph 3 of Article 1, each carrier which accepts passengers, baggage or cargo is subject to the rules set out in this Convention and is deemed to be one of the parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under its supervision.
2. In the case of carriage of this nature, the passenger or any person entitled to compensation in respect of him or her can take action only against the carrier which performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.
3. As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action

against the last carrier, and further, each may take action against the carrier which performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

Article 37 - Right of Recourse against Third Parties

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

Chapter IV Combined Carriage

Article 38 - Combined Carriage

1. In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention shall, subject to paragraph 4 of Article 18, apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.
2. Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

Chapter V

Carriage by Air Performed by a person other than the Contracting Carrier

Article 39 - Contracting Carrier - Actual Carrier

The provisions of this Chapter apply when a person (hereinafter referred to as "the contracting carrier") as a principal makes a contract of carriage governed by this Convention with a passenger or consignor or with a person acting on behalf of the passenger or consignor, and another person (hereinafter referred to as "the actual carrier") performs, by virtue of

authority from the contracting carrier, the whole or part of the carriage, but is not with respect to such part a successive carrier within the meaning of this Convention. Such authority shall be presumed in the absence of proof to the contrary.

Article 40 - Respective Liability of Contracting and Actual Carriers

If an actual carrier performs the whole or part of carriage which, according to the contract referred to in Article 39, is governed by this Convention, both the contracting carrier and the actual carrier shall, except as otherwise provided in this Chapter, be subject to the rules of this Convention, the former for the whole of the carriage contemplated in the contract, the latter solely for the carriage which it performs.

Article 41 - Mutual Liability

1. The acts and omissions of the actual carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the contracting carrier.
2. The acts and omissions of the contracting carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the actual carrier. Nevertheless, no such act or omission shall subject the actual carrier to liability exceeding the amounts referred to in Articles 21, 22, 23 and 24. Any special agreement under which the contracting carrier assumes obligations not imposed by this Convention or any waiver of rights or defences conferred by this Convention or any special declaration of interest in delivery at destination contemplated in Article 22 shall not affect the actual carrier unless agreed to by it.

Article 42 - Addressee of Complaints and Instructions

Any complaint to be made or instruction to be given under this Convention to the carrier shall have the same effect whether addressed to the contracting carrier or to the actual carrier. Nevertheless, instructions referred to in Article 12 shall only be effective if addressed to the contracting carrier.

Article 43 - Servants and Agents

In relation to the carriage performed by the actual carrier, any servant or agent of that carrier or of the contracting carrier shall, if they prove that they acted within the scope of their employment, be entitled to avail themselves of the conditions and limits of liability which are applicable under this Convention to the carrier whose servant or agent they are, unless it is proved that they acted in a manner that prevents the limits of liability from being invoked in accordance with this Convention.

Article 44 - Aggregation of Damages

In relation to the carriage performed by the actual carrier, the aggregate of the amounts recoverable from that carrier and the contracting carrier, and from their servants and agents acting within the scope of their employment, shall not exceed the highest amount which could be awarded against either the contracting carrier or the actual carrier under this Convention, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to that person.

Article 45 - Addressee of Claims

In relation to the carriage performed by the actual carrier, an action for damages may be brought, at the option of the plaintiff, against that carrier or the contracting carrier, or against both together or separately.

~~If the action is brought against only one of those carriers, that carrier shall have the right to require the other carrier to be joined in the proceedings, the procedure and effects being governed by the law of the court seised of the case.~~

Article 46 - Additional Jurisdiction

Any action for damages contemplated in Article 45 must be brought, at the option of the plaintiff, in the territory of one of the States Parties, either before a court in which an action may be brought against the contracting carrier, as provided in Article 33, or before the court having jurisdiction at the place where the actual carrier has its domicile or its principal place of business.

Article 47 - Invalidity of Contractual Provisions

Any contractual provision tending to relieve the contracting carrier or the actual carrier of liability under this Chapter or to fix a lower limit

than that which is applicable according to this Chapter shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Chapter.

Article 48 - Mutual Relations of Contracting and Actual Carriers

Except as provided in Article 45, nothing in this Chapter shall affect the rights and obligations of the carriers between themselves, including any right of recourse or indemnification.

Chapter VI Other Provisions

Article 49 - Mandatory Application

Any clause contained in the contract of carriage and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void.

Article 50 - Insurance

States Parties shall require their carriers to maintain adequate insurance ~~covering their liability under this Convention~~. A carrier may be required by the State Party into which it operates to furnish evidence that it maintains adequate insurance covering its liability under this Convention.

Article 51 - Carriage Performed in Extraordinary Circumstances

The provisions of Articles 3 to 5, 7 and 8 relating to the documentation of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of a carrier's business.

Article 52 - Definition of Days

The expression "days" when used in this Convention means calendar days, not working days.

Chapter VII

Final Clauses

Article 53 - Signature, Ratification and Entry into Force

1. This Convention shall be open for signature in Montreal on 28 May 1999 by States participating in the International Conference on Air Law held at Montreal from 10 to 28 May 1999. After 28 May 1999, the Convention shall be open to all States for signature at the Headquarters of the International Civil Aviation Organization in Montreal until it enters into force in accordance with paragraph 6 of this Article.
2. This Convention shall similarly be open for signature by Regional Economic Integration Organisations. For the purpose of this Convention, a “Regional Economic Integration Organisation” means any organisation which is constituted by sovereign States of a given region which has competence in respect of certain matters governed by this Convention and has been duly authorised to sign and to ratify, accept, approve or accede to this Convention. A reference to a “State Party” or “States Parties” in this Convention, otherwise than in paragraph 2 of Article 1, paragraph I(b) of Article 3, paragraph (b) of Article 5, Articles 23, 33, 46 and paragraph (b) of Article 57, applies equally to a Regional Economic Integration Organisation. For the purpose of Article 24, the references to “a majority of the States Parties” and “one-third of the States Parties” shall not apply to a Regional Economic Integration Organisation.
3. This Convention shall be subject to ratification by States and by Regional Economic Integration Organisations which have signed it.
4. Any State or Regional Economic Integration Organisation which does not sign this Convention may accept, approve or accede to it at any time.

5. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Civil Aviation Organization, which is hereby designated the Depositary.
6. This Convention shall enter into force on the sixtieth day following the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession with the Depositary between the States which have deposited such instrument. An instrument deposited by a Regional Economic Integration Organisation shall not be counted for the purpose of this paragraph.
7. For other States and for other Regional Economic Integration Organisations, this Convention shall take effect sixty days following the date of deposit of the instrument of ratification, acceptance, approval or accession.
8. The Depositary shall promptly notify all signatories and States Parties of:
 - (a) each signature of this Convention and date thereof;
 - (b) each deposit of an instrument of ratification, acceptance, approval or accession and date thereof;
 - (c) the date of entry into force of this Convention;
 - (d) the date of the coming into force of any revision of the limits of liability established under this Convention;
 - (e) any denunciation under Article 54.

Article 54 - Denunciation

1. Any State Party may denounce this Convention by written notification to the Depositary.
2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the Depositary.

Article 55 - Relationship with other Warsaw Convention Instruments

This Convention shall prevail over any rules which apply to international carriage by air:

1. between States Parties to this Convention by virtue of those States commonly being Party to

(a) the *Convention for the Unification of Certain Rules Relating to International Carriage by Air* Signed at Warsaw on 12 October 1929 (hereinafter called the Warsaw Convention);

(b) the *Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air* Signed at Warsaw on 12 October 1929, Done at The Hague on 28 September 1955 (hereinafter called The Hague Protocol);

(c) the *Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier*, signed at Guadalajara on 18 September 1961 (hereinafter called the Guadalajara Convention);

(d) the *Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air* Signed at Warsaw on 12 October 1929 as Amended by the Protocol Done at The Hague on 28 September 1955 Signed at Guatemala City on 8 March 1971 (hereinafter called the Guatemala City Protocol);

(e) *Additional Protocol Nos. 1 to 3 and Montreal Protocol No. 4 to amend the Warsaw Convention as amended by The Hague Protocol or the Warsaw Convention as amended by both The Hague Protocol and the Guatemala City Protocol* Signed at

Montreal on 25 September 1975 (hereinafter called the Montreal Protocols); or

2. within the territory of any single State Party to this Convention by virtue of that State being Party to one or more of the instruments referred to in sub-paragraphs (a) to (e) above.

Article 56 – States with more than one System of Law

1. If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.
2. Any such declaration shall be notified to the Depositary and shall state expressly the territorial units to which the Convention applies.
3. In relation to a State Party which has made such a declaration:

(a) references in Article 23 to “national currency” shall be construed as referring to the currency of the relevant territorial unit of that State; and

(b) the reference in Article 28 to “national law” shall be construed as referring to the law of the relevant territorial unit of that State.

Article 57 - Reservations

No reservation may be made to this Convention except that a State Party may at any time declare by a notification addressed to the Depositary that this Convention shall not apply to:

- (a) international carriage by air performed and operated directly by that State Party for non-commercial purposes in respect to its functions and duties as a sovereign State; and / or
- (b) the carriage of persons, cargo and baggage for its military authorities on aircraft registered in or leased by that State Party, the whole capacity of which has been reserved by or on behalf of such authorities.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Convention.

DONE at Montreal on the 28th day of May of the year one thousand nine hundred and ninety-nine in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic. This Convention shall remain deposited in the archives of the International Civil Aviation Organisation, and certified copies thereof shall be transmitted by the Depositary to all States Parties to this Convention, as well as to all States Parties to the Warsaw Convention, The Hague Protocol, the Guadalajara Convention, the Guatemala City Protocol, and the Montreal Protocols.

THIRD SCHEDULE

(sections 36(2), 36(3) and 37(1)(dd))

**MODIFICATION TO THE CONVENTION FOR THE
UNIFICATION OF CERTAIN RULES FOR INTERNATIONAL
CARRIAGE BY AIR**

CHAPTER 1

General Provisions

Article 1 - Scope of Application

1. This Convention applies to all carriage of persons, baggage or cargo performed by aircraft for reward within Ghana. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking
 2. Carriage to be performed by several successive carriers is deemed for the purposes of this convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts.
 3. This convention applies also to carriage as set out in Chapter V, subject to the terms contained therein.
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Article 2 - Carriage performed by State and Carriage of Postal Items

1. This convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.
2. In the carriage of postal items, the carriage shall be liable only to the relevant postal administration in accordance with the rules applicable to the relationship between the carriers and the postal administrations.
3. Except as provided in paragraph 2 of this Article, the provisions of this Convention shall not apply to the carriage of postal items.

CHAPTER 11

Documentation and Duties of the Parties Relating to the Carriage of passengers, Baggage and Cargo

Article 3 - Passengers and Baggage

1. In respect of carriage of passengers, an individual or collective document of carriage shall be delivered containing an indication of the places of departure and destination.
2. Any other means which preserves the information indicated in paragraph 1 may be substituted for the delivery of the document referred to in that paragraph. If any such other means is used, the carrier shall offer to deliver to the passenger a written statement of the information so preserved.
3. The carrier shall deliver to the passenger a baggage identification tag for each piece of checked baggage.
4. The passenger shall be given written notice to the effect that where this Convention is applicable it governs and may limit the liability of carriers in respect of death or injury and for destruction or loss of, or damage to, baggage and for delay.
5. Non-compliance with the provisions of the foregoing paragraphs shall not affect the existence or the validity of the contract of carriage, which shall nonetheless, be subject to the rules of this convention including those relating to limitation of liability.

Article 4 - Cargo

1. In respect of the carriage of cargo, an air waybill shall be delivered.
2. Any other means which preserves a record of the carriage to be performed may be substituted for the delivery of an air waybill. If such other means are used, the carrier shall, if so requested by the

consignor, deliver to the consignor a cargo receipt permitting identification of the consignment and access to the information contained in the record preserved by such other means.

Article 5 - Contents of Air Waybill of Cargo receipt

The air waybill or the cargo receipt shall include:

- (a) an indication of the places of departure and destination;
- (b) an indication of the weight of the consignment.

Article 6 - Document Relating to the Nature of the Cargo

The consignor may be required, if necessary, to meet the formalities of customs, police, and similar public authorities, to deliver a document indicating the nature of the cargo. This provision creates for the carrier no duty, obligation or liability resulting there from.

Article 7 - Description of Air Waybill

1. The air waybill shall be made out by the consignor in three original parts.
2. The first part shall be marked “for the carrier”; it shall be signed by the consignor.

The second part shall be marked “for the consignee”, it shall be signed by the consignor and by the carrier. The third part shall be signed by the carrier who shall hand it to the consignor after the cargo has been accepted.

3. The signature of the carrier and that of the consignor may be printed or stamped.
4. If, at the request of the consignor, the carrier makes out the air waybill, the carrier shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 8 - Documentation for Multiple Packages

When there is more than one package:

- (a) the carrier of cargo has the right to require the consignor to make out separate air waybills;
- (b) the consignor has the right to require the carrier to deliver separate cargo receipt when the other means referred to in paragraph 2 of Article 4 are used.

Article 9 - Non-compliance with Documentary Requirements

Non-compliance with the provisions of Article 4 to 8 shall not affect the existence or the validity of the contract of carriage, which shall nonetheless, be subject to the rules of this Convention including those relating to limitation of liability.

Article 10 - Responsibility for Particulars of Documentation

1. The consignor is responsible for the correctness of the particulars and statements relating to the cargo inserted by it or on its behalf in the air waybill or furnished by it or on its behalf to the carrier for insertion in the cargo receipt or for insertion in the record preserved by the other means referred to in paragraph 2 of Article 4. The foregoing shall also apply where the person acting on behalf of the consignor is also the agent of the carrier.
2. The consignor shall indemnify the carrier against all damage suffered by it, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor or on its behalf.
3. Subject to the provisions of paragraph 1 and 2 of this Article, the carrier shall indemnify the consignor against all damages suffered by it, or by any other person to whom the consignor is liable by reason of irregularity, incorrectness or incompleteness of the particulars and statements inserted by the carrier on its behalf in the cargo receipt or in the record preserved by the other means referred to in paragraph 2 or Article 4.

Article 11 - Evidentiary Value of Documentation

1. The air waybill or the cargo receipt is prima facie evidence of the conclusion of the contract, of the acceptance of the cargo and of the conditions of carriage mentioned therein.
2. Any statements in the air waybill or the cargo receipt relating to the weight, dimensions and packaging of the cargo, as well as those relating to the number of packages, are prima facie evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill or the cargo receipt to have been, checked by it in the presence of the consignor, or relate to the apparent condition of the cargo.

Article 12 - Right of Disposition of Cargo

1. Subject to its liability to carry out all its obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the airport of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee originally designated, or by requiring it to be returned to the airport of departure. The consignor must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and must reimburse any expenses occasioned by the exercise of this right.
2. If it is impossible to carry out the instructions of the consignor, the carrier must so inform the consignor forthwith.
3. If the carrier carries out the instructions of the consignor for the disposition of the cargo without requiring the production of the part of air waybill or the cargo receipt delivered to the latter, the carrier will be liable without prejudice to its right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of air waybill or the cargo receipt.

4. The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the cargo, or cannot be communicated with the consignor resumes its right to disposition.

Article 13 - Delivery of the Cargo

1. Except when the consignor has exercised its right under Article 12, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to deliver the cargo on payment of the charges due on complying with the conditions of carriage.
2. Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.
3. If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of two days after the date on which it ought to have arrived, the consignee is entitled to enforce against the carrier the rights which flow from the contract of carriage.

Article 14 - Enforcement of the Rights of Consignor and Consignee

The consignor and the consignee can respectively enforce all the rights given to them by Articles 12 and 13, each in its own name, whether it is acting in its own interest or in the interest of another, provided that it carries out the obligations imposed by the contract of carriage.

Article 15 - Relations of Consignor and Consignee or Mutual Relations of Third parties

1. Articles 12, 13 and 14 do not affect either the relations of the consignor and the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.
2. The provisions of Articles 12, 13, and 14 can only be varied by express provisions in the air waybill or the cargo receipt.

Article 16 - Formalities of Customs, Police or Other Public Authorities

1. The Consignor must furnish such information and such documents as are necessary to meet the formalities of customs, police, and any other public authorities before the cargo can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier, its servants or agents.
2. The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III

**Liability of the Carrier and Extent of Compensation for Damage
Article 17 - Death and Injury of Passengers - Damage to Baggage**

1. The carrier is liable for damage sustained in case of death or bodily injury of a passenger upon condition only that the accident which caused the death or injury took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

The carrier is liable for damage sustained in case of destruction or loss of, or damage to checked baggage upon condition only that the event which caused the destruction, or loss or damage took place on board the aircraft or during any period within which the checked baggage was in the charge of the carrier. However, the carrier is not liable if and to the extent that the damage resulted from the inherent defect, quality or vice of the baggage. In the case of unchecked baggage, including personal items, the carrier is liable if the damage resulted from its fault or that of its servants or agents.

If the carrier admits the loss of the checked baggage, or if the checked baggage has not arrived at the expiration of seven days after the date on which it ought to have arrived, the passenger is

entitled to enforce against the carrier the rights which flow from the contract of carriage.

Unless otherwise specified, in this Convention the term “baggage” means both checked baggage and unchecked baggage.

Article 18 - Damage of Cargo

The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, cargo upon condition only that the event which caused the damage so sustained took place during the carriage by air.

However, the carrier is not liable if and to the extent it proves that the destruction, or loss of, or damage to, the cargo resulted from one or more of the following; inherent defect, quality or vice of that cargo; defective packing of that cargo performed by a person other than the carrier or its servants or agents; an act of war or an armed conflict; an act of public authority carried out in connection with the entry, exit or transit of the cargo.

The carriage by air within the meaning paragraph 1 of this Article comprises the period during which the cargo is in the charge of the carrier.

The period of the carriage by air does not extend to any carriage by land, by sea or by inland waterway performed outside airport. If, however, such carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air. If a carrier, without consent of the consignor, substitutes carriage by another mode of transport for the whole or part of a carriage intended by the agreement between the parties to be carriage by air, such carriage by another mode of transport is deemed to be within the period of carriage by air.

Article 19 - Delay

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo. Nevertheless, the carrier shall not be liable for damage occasioned by delay if it proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures.

Article 20 - Exoneration

If the carrier proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from which he or she derives his or her rights, the carrier shall be wholly or partly exonerated from its liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage. When by reason of death or injury of a passenger compensation is claimed by a person other than the passenger, the carrier shall likewise be wholly or partly exonerated from its liability to the extent that it proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of that passenger. This Article applies to all the liability provisions on this Convention, including paragraph 1 of Article 21.

Article 21- Compensation in case of Death or Injury of Passengers

For damages arising under paragraph 1 of Article 17 not exceeding 100,000.00 United States Dollars or its cedi equivalent for each passenger, the carrier shall not be able to exclude or limit its liability.

The carrier shall not be liable for damages arising under paragraph 1 of Article 17 to the extent that they exceed for each passenger 100,000 United States Dollars if the carrier proves that:

Such damage was not due to the negligence or other wrongful act or omission of the carrier or its servants or agents; or Such damage was solely due to the negligence or other wrongful act or omission of a third party.

Article 22 - Limits of Liability in Relation to Delay, Baggage and Cargo

1. In the case of damage caused by delay as specified in Article 19 in the carriage of persons, the liability of the carrier for each passenger is limited to 4150 United States Dollars.
2. In the carriage of baggage, the liability of the carrier in the case of destruction, loss, damage, or delay is limited to 1000 United States Dollars for each passenger unless the passenger has made, at the time when the checked baggage was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the passenger's actual interest in delivery at destination.
3. In the carriage of cargo, the liability of the carrier in the case of destruction, loss, damage or delay is limited to a sum of 20 United States Dollars per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at a destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the consignor's actual interest in delivery at destination.
4. In the case of destruction, loss, damage or delay of part of the cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the destruction, loss, damage of a part of the cargo, or of an object contained therein, affects the value of other packages covered by the same air waybill, or the same receipt or, if they were not issued, by the same record preserved by the other means referred to in paragraph 2 of Article 4, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

5. The foregoing provisions of paragraph 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the carrier, its servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that such servant or agent was acting within the scope of its employment.
6. The limits prescribed in Article 21 and in this Article shall not prevent the court from awarding, in accordance with its own rules of procedure in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the Plaintiff, including interest. The foregoing provision shall not apply if the amount of the damages awarded, including court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the Plaintiff within a period of six months from the date of the occurrence causing the damage, of before the commencement of the action, if that is later.

Article 23 – Conversion of Monetary Units

The sums mentioned in Articles 21 and 22 shall be converted to Cedis at the existing official exchange rate.

Article 24 - Review of Limits

Without prejudice to the provisions of Article 25 of this Convention, the limits of liability prescribed in Articles 21, 22 and 23 shall be reviewed by the Minister responsible for Aviation upon advice by the Ghana Civil Aviation Authority at five year intervals, the first such review to take place at the end of the fifth year following the date of entry into force of this Act.

Article 25 - Stipulation on Limits

A carrier may stipulate that the contract of carriage shall be subject to higher limits of liability than those provided for in this Convention or to no limits of liability whatsoever.

Article 26 - Invalidity of Contractual Provisions

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

Article 27 - Freedom to Contract

Nothing contained in this Convention shall prevent the carrier from refusing to enter into any contract of carriage, from waiving any defences available under the Convention, or from laying down conditions which do not conflict with the provisions of this Convention.

Article 28 - Advance Payments

In the case of aircraft accidents resulting in death or injury of passengers, the carrier shall, make advance payments without delay to a natural person or persons who are entitled to claim compensation in order to meet the immediate economic needs of such persons. Such advance payment amount shall not constitute a recognition of liability and may be offset against any amounts subsequently paid as damages by the carrier.

Article 29 - Basis of Claims

In the carriage of passengers, baggage and cargo, any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and such limits of liability as are set out in this Convention without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights. In any such action, punitive, exemplary or any other non-compensatory damages shall not be recoverable.

Article 30 - Servants, Agents - Aggregation of Claims

1. If an action is brought against a servant or agent of the carrier arising out of damage to which the Convention relates, such servant or agent, if they prove that they acted within the scope of their employment, shall be entitled to avail themselves of the conditions and limits of liability which the carrier itself is entitled to invoke under this Convention.

2. The aggregate of the amounts recoverable from the carrier, its servants and agents, in that case, shall not exceed the said limits.
3. Save in respect of the carriage of cargo, the provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

Article 31 - Timely Notice of Complaints

1. Receipt by the person entitled to delivery of checked baggage or cargo without complaint is *prima facie* evidence that the same has been delivered in good condition and in accordance with the document of carriage or with the record preserved by the other means referred to in paragraph 2 of Article 3 and paragraph 2 of Article 4.
2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within two days from the date of receipt in the case of checked baggage and seven days from the date of receipt in the case of cargo. In the case of delay, the complaint must be made at the latest within fourteen days from the date on which the baggage or cargo have been placed at his or her disposal.

Every complaint must be made in writing and given or dispatched within the times aforesaid. If no complaint is made within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on its part.

Article 32 - Death of Person Liable

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his or her estate.

Article 33 - Court

1. A person who has suffered a damage under this Convention may bring an action in the High Court.
2. The High Court shall have exclusive original jurisdiction in a matter brought under section 1.

Article 34 – Not Implemented**Article 35 - Limitation of Actions**

The right to damages shall be extinguished if an action is not brought within a period of two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

Article 36 - Successive Carriage

1. In the case of carriage to be performed by various successive carriers and falling within the definition set out in paragraph 3 of Article 1, each carrier which accepts passengers, baggage or cargo is subject to the rules set out in this Convention and is deemed to be one of the parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under its supervision.
2. In the case of carriage of this nature, the passenger or any person entitled to compensation in respect of him or her can take action only against the carrier which performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.
3. As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier which performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be

jointly and severally liable to the passengers or to the consignor or consignee.

Article 37 - Right to Resources against Third Parties

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of resources against any other person.

Chapter IV

Article 38- Combined Carriage

1. In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention shall, subject to paragraph 4 of Article 18, apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.
2. Nothing in this convention shall prevent the parties in the case of combined carriage from inserting in the documents of air carriage conditions relating to other modes of carriage, provided that the provisions of this convention are observed as regards the carriage by air.

CHAPTER V

Carriage by Air Performed by a Person other than the Contracting carrier

Article 39 -Contracting Carrier - Actual Carrier

The provisions of this Chapter apply when a person (hereinafter referred to as “the contracting carrier”) as a principal makes a contract of carriage governed by this Convention with a passenger or consignor or with a person acting on behalf of the passenger or consignor, and another (hereinafter referred to as “the actual carrier”) performs, by virtue of authority from the contracting carrier, the whole or part of the carriage, but is not with respect to such part a successive carrier within the meaning of this Convention. Such authority shall be presumed in the absence of proof to the contrary.

Article 40 - Respective Liability of Contracting and Actual Carriers

If an actual carrier performs the whole or part of carriage which, according to the contract referred to in Article 39, is governed by this Convention, both the contracting carrier and the actual shall, except as otherwise provided in this chapter, be subject to the rules of this convention, the former for the whole of the carriage contemplated in the contract, the latter solely for the carriage which it performs.

Article 41- Mutual Liability

1. The acts and omissions of the actual carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the contracting carrier.
2. The acts and omissions of the contracting carrier and of its servants and agents acting within the scope of their employment shall, in relation the carriage performed by the actual carrier, be deemed to be also those of the actual carrier. Nevertheless, no such act or omission shall subject the actual carrier to liability exceeding the amounts referred to in Articles 21, 22, 23 and 24. Any special agreement under which the contracting carrier assumes obligations not imposed by this Convention or any waiver of rights or ~~defences conferred by this Convention or any special declaration~~ of interest in delivery at destination contemplated in Article 22 shall not affect the actual carrier unless agreed to by it.

Article 42 - Addressee of Complaints and Instructions

Any complaint to be made or instruction to be given under this Convention to the carrier shall have the same effect whether addressed to the contracting carrier or to the actual carrier. Nevertheless, instructions referred to in Article 12 shall only be effective if addressed to the contracting carrier.

Article 43 - Servants and Agents

In relation to the carriage performed by the actual carrier, any servant or agent of that carrier or of the contracting carrier shall, if they prove that they acted within the scope of their employment, be entitled to avail

themselves of the conditions and limits of liability which are applicable under this Convention to the carrier whose servant or agent they are, unless it is proved that they acted in a manner that prevents the limits of liability from being invoked in accordance with this Convention.

Article 44 - Aggregation of Damages

In relation to the carriage performed by the actual carrier, the aggregate of the amounts recoverable from that carrier and the contracting carrier, and from their servants and agents acting within the scope of their employment, shall not exceed the highest amount which could be awarded against either the contracting carrier or the actual carrier under this Convention, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to that person.

Article 45 - Addressee of Claims

In relation to the carriage performed by the actual carrier, an action for damages may be brought, at the option of the Plaintiff, against that carrier or the contracting carrier; or against both together or separately. If the action is brought against only one of those carriers, that carrier shall have the right to require the other carrier to be joined in the proceedings, the procedure and effects being governed by the law of the court seized of the case.

Article 46 - Invalidity of Contractual Provisions

Any contractual provision tending to relieve the contracting carrier or the actual carrier of liability under this Chapter or to fix a lower limit than that which is applicable according to this Chapter shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Chapter.

Article 47 - Mutual relations of Contracting and Actual Carriers

Except as provided in Article 45, nothing in this Chapter shall affect the rights and obligations of the carriers between themselves, including any right of recourse or indemnification.

Chapter VI
Other Provisions
Article 48 - Mandatory Application

Any clause contained in the contract of carriage and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void.

Article 49 - Carriage Performed in Extraordinary Circumstances

The provisions of Article 3 to 5, 7 and 8 relating to the documents of carriage shall not apply in the case of carriage performed in extra-ordinary circumstances outside the normal scope of a carrier's business.

Article 50 - Definition of Days

The expression "days" when used in this convention means working days, not calendar days.

FOURTH SCHEDULE

(section 36(4))

**PART A: CONVENTION ON INTERNATIONAL INTERESTS IN
MOBILE EQUIPMENT 2001**

THE STATES PARTIES,

AWARE of the need to acquire and use aircraft equipment of high value or particular economic significance and to facilitate the financing of the acquisition and use of such equipment in an efficient manner,

RECOGNISING the advantages of asset-based financing and leasing for this purpose and desiring to facilitate these types of transaction by establishing clear rules to govern them,

MINDFUL of the need to ensure that interests in such equipment are recognized and protected universally, DESIRING to provide broad and mutual economic benefits for all interested parties, BELIEVING that such rules must reflect the principles underlying asset-based financing and leasing and promote the autonomy of the parties necessary in these transactions,

CONSCIOUS of the need to establish a legal framework for international interests in such equipment and for that purpose to create an international registration system for their protection,

MINDFUL of the principles and objectives of the Convention on International Civil Aviation, signed at Chicago on 7 December 1944, HAVE AGREED upon the following provisions:

Chapter 1

Sphere of application and general provisions

Article 1 - Definitions

For the purposes of this Convention, “this Convention” means the Consolidated Text of the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment.

In this Convention, except where the context otherwise requires, the following terms are employed with the meanings set out below:

- (a) “agreement” means a security agreement, a title reservation agreement or a leasing agreement;
- (b) “aircraft” means aircraft as defined for the purposes of the Chicago Convention which are either airframes with aircraft engines installed thereon or helicopters;
- (c) “aircraft engines” means aircraft engines (other than those used in military, customs or police services) powered by jet propulsion or turbine or piston technology and:
 - (i) in the case of jet propulsion aircraft engines, have at least 1750 lb of thrust or its equivalent; and
 - (ii) in the case of turbine-powered or piston-powered aircraft engines, have at least 550 rated take-off shaft horsepower or its equivalent,

together with all modules and other installed, incorporated or attached accessories, parts and equipment and all data, manuals and records relating thereto;

- (d) “aircraft objects” means airframes, aircraft engines and helicopters;
- (e) “aircraft register” means a register maintained by a State or a common mark registering authority for the purposes of the Chicago Convention;
- (f) “airframes” means airframes (other than those used in military, customs and police services) that, when appropriate aircraft engines are installed thereon, are type certified by the competent aviation authority to transport:
 - (i) at least eight (8) persons including crew; or
 - (ii) goods in excess of 2750 kilograms,

together with all installed, incorporated or attached accessories, parts and equipment (other than aircraft engines), and all data, manuals and records relating thereto;

- (g) “assignment” means a contract which, whether by way of security or otherwise, confers on the assignee associated rights with or without a transfer of the related international ... interest;

- (h) “associated rights” means all rights to payment or other performance by a debtor under an agreement which are secured by or associated with the aircraft object;
- (i) “authorised party” means the party referred to in Article 25(3);
- (j) “Chicago Convention” means the *Convention on International Civil Aviation*, signed at Chicago on 7 December, 1944, as amended, and its Annexes;
- (k) “commencement of the insolvency proceedings” means the time at which the insolvency proceedings are deemed to commence under the applicable insolvency law;
- (l) “common mark registering authority” means the authority maintaining a register in accordance with Article 77 of the Chicago Convention as implemented by the Resolution adopted on 14 December 1967 by the Council of the International Civil Aviation Organisation on nationality and registration of aircraft operated by international operating agencies;
- (m) “conditional buyer” means a buyer under a title reservation agreement;
- (n) “conditional seller” means a seller under a title reservation agreement;
- (o) “contract of sale” means a contract for the sale of an aircraft object by a seller to a buyer which is not an agreement as defined in (a) above;
- (p) “court” means a court of law or an administrative or arbitral tribunal established by a Contracting State;
- (q) “creditor” means a chargee under a security agreement, a conditional seller under a title reservation agreement or a lessor under a leasing agreement;
- (r) “debtor” means a chargor under a security agreement, a conditional buyer under a title reservation agreement, a lessee under a leasing agreement or a person whose interest in an aircraft object is burdened by a registrable non-consensual right or interest;

- (s) “de-registration of the aircraft” means deletion or removal of the registration of the aircraft from its aircraft register in accordance with the Chicago Convention;
- (t) “guarantee contract” means a contract entered into by a person as guarantor;
- (u) “guarantor” means a person who, for the purpose of assuring performance of any obligations in favour of a creditor secured by a security agreement or under an agreement, gives or issues a suretyship or demand guarantee or a standby letter of credit or any other form of credit insurance;
- (v) “helicopters” means heavier-than-air machines (other than those used in military, customs or police services) supported in flight chiefly by the reactions of the air on one or more power-driven rotors on substantially vertical axes and which are type certified by the competent aviation authority to transport:

- (i) at least five (5) persons including crew; or
- (ii) goods in excess of 450 kilograms,

together with all installed, incorporated or attached accessories, parts and equipment (including rotors), and all data, manuals and records relating thereto;

- (w) “insolvency administrator” means a person authorised to administer the reorganisation or liquidation, including one authorised on an interim basis, and includes a debtor in possession if permitted by the applicable insolvency law;
- (x) “insolvency proceedings” means bankruptcy, liquidation or other collective judicial or administrative proceedings, including interim proceedings, in which the assets and affairs of the debtor are subject to control or supervision by a court for the purposes of reorganisation or liquidation;
- (y) “insolvency-related event” means:
 - (i) the commencement of the insolvency proceedings; or
 - (ii) the declared intention to suspend or actual suspension of payments by the debtor where the creditor’s right to institute insolvency proceedings against the debtor or to exercise remedies under this Convention is prevented or suspended by law or State action;

- (z) “interested persons” means:
 - (i) the debtor;
 - (ii) any guarantor;
 - (iii) any other person having rights in or over the aircraft object;
- (aa) “internal transaction” means a transaction of a type listed in Article 2(2)(a) to (c) where the centre of the main interests of all parties to such transaction is situated, and the relevant aircraft object under Article 3(4) is located, in the same Contracting State at the time of the conclusion of the contract and where the interest created by the transaction has been registered in a national registry in that Contracting State which has made a declaration under Article 66(1);
- (bb) “international interest” means an interest held by a creditor to which Article 2 applies;
- (cc) “International Registry” means the international registration facilities established for the purposes of this Convention;
- (dd) “leasing agreement” means an agreement by which one person (the lessor) grants a right to possession or ~~control of an aircraft object (with or without an option to purchase)~~ to another person (the lessee) in return for a rental or other payment;
- (ee) “national interest” means an interest held by a creditor in an aircraft object and created by an internal transaction covered by a declaration under Article 66(1);
- (ff) “non-consensual right or interest” means a right or interest conferred under the law of a Contracting State which has made a declaration under Article 52 to secure the performance of an obligation, including an obligation to a State, State entity or an intergovernmental or private organisation;
- (gg) “notice of a national interest” means notice registered or to be registered in the International Registry that a national interest has been created;

- (hh) “pre-existing right or interest” means a right or interest of any kind in or over an aircraft object created or arising before the effective date of this Convention as defined by Article 76(2)(a);
- (ii) “primary insolvency jurisdiction” means the Contracting State in which the centre of the debtor’s main interests is situated, which for this purpose shall be deemed to be the place of the debtor’s statutory seat or, if there is none, the place where the debtor is incorporated or formed, unless proved otherwise;
- (jj) “proceeds” means money or non-money proceeds of an aircraft object arising from the total or partial loss or physical destruction of the aircraft object or its total or partial confiscation, condemnation or requisition;
- (kk) “prospective assignment” means an assignment that is intended to be made in the future, upon the occurrence of a stated event, whether or not the occurrence of the event is certain;
- (ll) “prospective international interest” means an interest that is intended to be created or provided for in an aircraft object as an international interest in the future, upon the occurrence of a stated event (which may include the debtor’s acquisition of an interest in the aircraft object), whether or not the occurrence of the event is certain;
- (nm) “prospective sale” means a sale which is intended to be made in the future, upon the occurrence of a stated event, whether or not the occurrence of the event is certain;
- (nn) “registered” means registered in the International Registry pursuant to Chapter V;
- (oo) “registered interest” means an international interest, a registrable non-consensual right or interest or a national interest specified in a notice of a national interest registered pursuant to Chapter V;

- (pp) “registrable non-consensual right or interest” means a non-consensual right or interest registrable pursuant to a declaration deposited under Article 53;
- (qq) “Registrar” means the person or body appointed under Articles 27(4)(b) and 28;
- (rr) “registry authority” means the national authority or the common mark registering authority, maintaining an aircraft register in a Contracting State and responsible for the registration and de-registration of an aircraft in accordance with the Chicago Convention;
- (ss) “regulations” means regulations made or approved by the Supervisory Authority pursuant to this Convention;
- (tt) “sale” means a transfer of ownership of an aircraft object pursuant to a contract of sale;
- (uu) “secured obligation” means an obligation secured by a security interest;
- (vv) “security agreement” means an agreement by which a chargor grants or agrees to grant to a chargee an interest (including an ownership interest) in or over an aircraft object to secure the performance of any existing or future obligation of the chargor or a third person;
- (ww) “security interest” means an interest created by a security agreement;
- (xx) “State of registry” means, in respect of an aircraft, the State on the national register of which an aircraft is entered or the State of location of the common mark registering authority maintaining the aircraft register;
- (yy) “Supervisory Authority” means the Supervisory Authority referred to in Article 27;
- (zz) “title reservation agreement” means an agreement for the sale of an aircraft object on terms that ownership does not pass until fulfilment of the condition or conditions stated in the agreement;
- (aaa) “unregistered interest” means a consensual interest or non-consensual right or interest (other than an interest to which Article 52 applies) which has not been registered, whether or not it is registrable under this Convention; and

(bbb) “writing” means a record of information (including information communicated by transmission) which is in tangible or other form and is capable of being reproduced in tangible form on a subsequent occasion and which indicates by reasonable means a person’s approval of the record.

Article 2 - The international interest

1. This Convention provides for the constitution and effects of an international interest in aircraft objects and associated rights.
2. For the purposes of this Convention, an international interest in aircraft objects is an interest, constituted under Article 10, in airframes, aircraft engines or helicopters:
 - (a) granted by the chargor under a security agreement;
 - (b) vested in a person who is the conditional seller under a title reservation agreement; or
 - (c) vested in a person who is the lessor under a leasing agreement.

An interest falling within sub-paragraph (a) does not also fall within sub-paragraph (b) or (c).

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3. The applicable law determines whether an interest to which the preceding paragraph applies falls within sub-paragraph (a), (b) or (c) of that paragraph.
 4. An international interest in an aircraft object extends to proceeds of that aircraft object.

Article 3 - Sphere of application

1. This Convention applies when, at the time of the conclusion of the agreement creating or providing for the international interest, the debtor is situated in a Contracting State.
2. The fact that the creditor is situated in a non-Contracting State does not affect the applicability of this Convention.

3. Without prejudice to paragraph 1 of this Article, this Convention shall also apply in relation to a helicopter, or to an airframe pertaining to an aircraft, registered in an aircraft register of a Contracting State which is the State of registry, and where such registration is made pursuant to an agreement for registration of the aircraft it is deemed to have been effected at the time of the agreement.
4. For the purposes of the definition of “internal transaction” in Article 1 of this Convention:
 - (a) an airframe is located in the State of registry of the aircraft of which it is a part;
 - (b) an aircraft engine is located in the State of registry of the aircraft on which it is installed or, if it is not installed on an aircraft, where it is physically located; and
 - (c) a helicopter is located in its State of registry,at the time of the conclusion of the agreement creating or providing for the interest.

Article 4 - Where debtor is situated

1. For the purposes of Article 3(1), the debtor is situated in any Contracting State:
 - (a) under the law of which it is incorporated or formed;
 - (b) where it has its registered office or statutory seat;
 - (c) where it has its centre of administration; or
 - (d) where it has its place of business.
2. A reference in sub-paragraph (d) of the preceding paragraph to the debtor’s place of business shall, if it has more than one place of business, mean its principal place of business or, if it has no place of business, its habitual residence.

Article 5 - Interpretation and applicable law

1. In the interpretation of this Convention, regard is to be had to its purposes as set forth in the preamble, to its international character and to the need to promote uniformity and predictability in its application.

2. Questions concerning matters governed by this Convention which are not expressly settled in it are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the applicable law.
3. References to the applicable law are to the domestic rules of the law applicable by virtue of the rules of private international law of the forum State.
4. Where a State comprises several territorial units, each of which has its own rules of law in respect of the matter to be decided, and where there is no indication of the relevant territorial unit, the law of that State decides which is the territorial unit whose rules shall govern. In the absence of any such rule, the law of the territorial unit with which the case is most closely connected shall apply.

Article 6 - Application to sale and prospective sale

The following provisions of this Convention apply as if references to an agreement creating or providing for an international interest were references to a contract of sale and as if references to an international interest, a prospective international interest, the debtor and the creditor were references to a sale, a prospective sale, the seller and the buyer, respectively:

**Articles 3 and 4; Article 26(1)(a); Article 32(4);
Article 33(1) (as regards registration of a contract of sale or a
prospective sale); Article 38(2) (as regards a prospective sale); and
Article 43**

In addition, the general provisions of Article 1, Article 5, Chapters IV to VII, Article 42 (other than Article 42(3) and (4), Chapter X, Chapter XI (other than Article 55), Chapter XII and Chapter XIII (other than Article 76) shall apply to contracts of sale and prospective sales.

Article 7 - Representative capacities

A person may enter into an agreement or a sale, and register an international interest in, or a sale of, an aircraft object, in an agency, trust or other representative capacity. In such case, that person is entitled to assert rights and interests under his Convention.

Article 8 - Description of aircraft objects

A description of an aircraft object that contains its manufacturer's serial number, the name of the manufacturer and its model designation is necessary and sufficient to identify the aircraft object for the purposes of Articles 10(c) and 11(1) (c) of this Convention

Article 9 - Choice of law

1. This Article applies only where a Contracting State has made a declaration pursuant to Article 71(1).
2. The parties to an agreement, or a contract of sale, or a related guarantee contract or subordination agreement may agree on the law which is to govern their contractual rights and obligations, wholly or in part.
3. Unless otherwise agreed, the reference in the preceding paragraph to the law chosen by the parties is to the domestic rules of law of the designated State or, where that State comprises several territorial units, to the domestic law of the designated territorial unit.

Chapter II

Constitution, of an international interest; contracts of sale

Article 10 - Formal requirements

An interest is constituted as an international interest under this Convention where the agreement creating or providing for the interest:

- (a) is in writing;
- (b) relates to an aircraft object of which the chargor, conditional seller or lessor has power to dispose;
- (c) enables the aircraft object to be identified; and
- (d) in the case of a security agreement, enables the secured obligations to be determined, but without the need to state a sum or maximum sum secured.

Article 11 - Formalities and effects of contracts of sale

1. For the purposes of this Convention, a contract of sale is one which:
 - (a) is in writing;

- (b) relates to an aircraft object of which the seller has power to dispose; and
 - (c) enables the aircraft object to be identified in conformity with this Convention.
- 2. A contract of sale transfers the interest of the seller in the aircraft object to the buyer according to its terms.

Chapter III

Default remedies

Article 12 - Remedies of chargee

- 1. In the event of default as provided in Article 17, the chargee may, to the extent that the chargor has at any time so agreed and subject to any declaration that may be made by a Contracting State under Article 70, exercise anyone or more of the following remedies:
 - (a) take possession or control of any aircraft object charged to it;
 - (b) sell or grant a lease of any such aircraft object;
 - (c) collect or receive any income or profits arising from the management or use of any such aircraft object.
 - 2. The chargee may alternatively apply for a court order authorising or directing any of the acts referred to in the preceding paragraph.
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- 3. A chargee proposing to sell or grant a lease of an aircraft object under paragraph 1 shall give reasonable prior notice in writing of the proposed sale or lease to:
 - (a) interested persons specified in Article 1(z)(i) and (ii); and
 - (b) interested persons specified in Article 1(z)(iii) who have given notice of their rights to the chargee within a reasonable time prior to the sale or lease.
 - 4. A chargee giving ten or more working days' prior written notice of a proposed sale or lease to interested persons shall be deemed to satisfy the requirement of providing "reasonable prior notice" specified in the preceding paragraph. The foregoing shall not prevent a chargee and a chargor or a guarantor from agreeing to a longer period of prior notice.

5. Any sum collected or received by the chargee as a result of exercise of any of the remedies set out in paragraph 1 or 2 shall be applied towards discharge of the amount of the secured obligations.
6. Where the sums collected or received by the chargee as a result of the exercise of any remedy set out in paragraph 1 or 2 exceed the amount secured by the security interest and any reasonable costs incurred in the exercise of any such remedy, then unless otherwise ordered by the court the chargee shall distribute the surplus among holders of subsequently ranking interests which have been registered or of which the chargee has been given notice, in order of priority, and pay any remaining balance to the chargor.

Article 13 - Vesting of aircraft object in satisfaction; redemption

1. At any time after default as provided in Article 17, the chargee and all the interested persons may agree that ownership of (or any other interest of the chargor in) any aircraft object covered by the security interest shall vest in the chargee in or towards satisfaction of the secured obligations.
2. The court may on the application of the chargee order that ownership of (or any other interest of the chargor in) any aircraft object covered by the security interest shall vest in the chargee in or ~~towards satisfaction of the secured obligations.~~
3. The court shall grant an application under the preceding paragraph only if the amount of the secured obligations to be satisfied by such vesting is commensurate with the value of the aircraft object after taking account of any payment to be made by the chargee to any of the interested persons.
4. At any time after default as provided in Article 17 and before sale of the charged aircraft object or the making of an order under paragraph 2, the chargor or any interested person may discharge the security interest by paying in full the amount secured, subject to any lease granted by the chargee under Article 12(1)(b) or ordered under Article 12(2). Where, after such default, the payment of the amount secured is made in full by an interested person other than the debtor, that person is subrogated to the rights of the chargee.

5. Ownership or any other interest of the chargor passing on a sale under Article 12(1)(b) or passing under paragraph 1 or 2 of this Article is free from any other interest over which the chargee's security interest has priority under the provisions of Article 42.

Article 14 - Remedies of conditional seller or lessor

In the event of default under a title reservation agreement or under a leasing agreement as provided in Article 17, the conditional seller or the lessor, as the case may be, may:

- (a) subject to any declaration that may be made by a Contracting State under Article 70, terminate the agreement and take possession or control of any aircraft object to which the agreement relates; or
- (b) apply for a court order authorising or directing either of these acts.

Article 15 - Additional remedies of creditor

1. In addition to the remedies specified in Articles 12, 14, 16 and 20, the creditor may, to the extent that the debtor has at any time so agreed and in the circumstances specified in such provisions:
 - (a) procure the de-registration of the aircraft; and
 - (b) procure the export and physical transfer of the aircraft object from the territory in which it is situated.
2. The creditor shall not exercise the remedies specified in the preceding paragraph without the prior consent in writing of the holder of any registered interest ranking in priority to that of the creditor.
3. The registry authority in a Contracting State shall, subject to any applicable safety laws and regulations, honour a request for de-registration and export if:
 - (a) the request is properly submitted by the authorised party under a recorded irrevocable de-registration and export request authorisation; and
 - (b) the authorised party certifies to the registry authority, if required by that authority, that all registered interests ranking in priority to that of the creditor in whose favour the authorisation has been issued have been discharged or that the holders of such interests have consented to the de-registration and export.

4. A chargee proposing to procure the de-registration and export of an aircraft under paragraph 1 otherwise than pursuant to a court order shall give reasonable prior notice in writing of the proposed de-registration and export to:
 - (a) interested persons specified in Article 1(z)(i) and (ii) of this Convention; and
 - (b) interested persons specified in Article 1(z)(iii) of this Convention who have given notice of their rights to the chargee within a reasonable time prior to the de-registration and export.

Article 16 - Additional remedies under applicable law

Any additional remedies permitted by the applicable law, including any remedies agreed upon by the parties, may be exercised to the extent that they are not inconsistent with the mandatory provisions of this Chapter as set out in Article 22.

Article 17 - Meaning of default

1. The debtor and the creditor may at any time agree in writing as to the events that constitute a default or otherwise give rise to the rights and remedies specified in Articles 12 to 15 and 20.
2. Where the debtor and the creditor have not so agreed, “default” for the purposes of Articles 12 to 15 and 20 means a default which substantially deprives the creditor of what it is entitled to expect under the agreement.

Article 18 - Debtor provisions

1. In the absence of a default within the meaning of Article 17 of this Convention, the debtor shall be entitled to the quiet possession and use of the aircraft object in accordance with the agreement as against:
 - (a) its creditor and the holder of any interest from which the debtor takes free pursuant to Article 42(5) or, in the capacity of buyer, Article 42(3) of this Convention, unless and to the extent that the debtor has otherwise agreed; and

- (b) the holder of any interest to which the debtor's right or interest is subject pursuant to Article 42(5) or, in the capacity of buyer, Article 42(4) of this Convention, but only to the extent, if any, that such holder has agreed.
- 2. Nothing in this Convention affects the liability of a creditor for any breach of the agreement under the applicable law in so far as that agreement relates to an aircraft object.

Article 19 - Standard for exercising remedies

Any remedy given by this Convention in relation to an aircraft object shall be exercised in a commercially reasonable manner. A remedy shall be deemed to be exercised in a commercially reasonable manner where it is exercised in conformity with a provision of the agreement except where such a provision is manifestly unreasonable.

Article 20 - Relief pending final determination

- 1. Subject to any declaration that it may make under Article 71 (2), a Contracting State shall ensure that a creditor who adduces evidence of default by the debtor may, pending final determination of its claim and to the extent that the debtor has at any time so agreed, obtain from a court speedy relief in the form of such one or more of the following orders as the creditor requests:
 - (a) preservation of the aircraft object and its value;
 - (b) possession, control or custody of the aircraft object;
 - (c) immobilisation of the aircraft object;
 - (d) lease or, except where covered by sub-paragraphs (a) to (c), management of the aircraft object and the income there from; and
 - (e) if at any time the debtor and the creditor specifically agree, sale and application of proceeds there from.
- 2. For the purposes of the preceding paragraph, "speedy" in the context of obtaining relief means within such number of working days from the date of filing of the application for relief as is specified in a declaration made by the Contracting State in which the application is made.

3. Ownership or any other interest of the debtor passing on a sale under sub-paragraph (e) of paragraph 1 of this Article is free from any other interest over which the creditor's international interest has priority under the provisions of Article 42 of this Convention.
4. In making any order under paragraph 1 of this Article, the court may impose such terms as it considers necessary to protect the interested persons in the event that the creditor:
 - (a) in implementing any order granting such relief, fails to perform any of its obligations to the debtor under this Convention; or
 - (b) fails to establish its claim, wholly or in part, on the final determination of that claim.
5. The creditor and the debtor or any other interested person may agree in writing to exclude the application of the preceding paragraph.
6. Before making any order under paragraph 1, the court may require notice of the request to be given to any of the interested persons.
7. With regard to the remedies in Article 15(1):
 - (a) they shall be made available by the registry authority and other administrative authorities, as applicable, in a Contracting State no later than five working days after the creditor notifies such authorities that the relief specified in Article 15(1) is granted or, in the case of relief granted by a foreign court, recognised by a court of that Contracting State, and that the creditor is entitled to procure those remedies in accordance with this Convention; and
 - (b) the applicable authorities shall expeditiously co-operate with and assist the creditor in the exercise of such remedies in conformity with the applicable aviation safety laws and regulations.
8. Nothing in the preceding paragraphs affects the application of Article 19 or limits the availability of forms of interim relief other than those set out in paragraph 1.

9. Paragraphs 2 and 7 shall not affect any applicable aviation safety laws and regulations.
10. Paragraphs 2, 3, 5, 7 and 9 of this Article apply only where a Contracting State has made a declaration under Article 71(2) and to the extent stated in such declaration.

Article 21 - Procedural requirements

Subject to Article 70(2), any remedy provided by this Chapter shall be exercised in conformity with the procedure prescribed by the law of the place where the remedy is to be exercised.

Article 22 - Derogation

Any two or more of the parties referred to in this Chapter may at any time, by agreement in writing, exclude the application of Article 23 and, in their relations with each other, derogate from or vary the effect of any of the preceding provisions of this Chapter, except as stated in Articles 12(3) to (6), 13(3) and (4), 15(2), 19 and 21.

Article 23 - Remedies on insolvency

1. This Article applies only where a Contracting State that is the primary insolvency jurisdiction has made a declaration pursuant to Article 71(3).

Alternative A

2. Upon the occurrence of an insolvency-related event, the insolvency administrator or the debtor, as applicable, shall, subject to paragraph 7, give possession of the aircraft object to the creditor no later than the earlier of
 - (a) the end of the waiting period; and
 - (b) the date on which the creditor would be entitled to possession of the aircraft object if this Article did not apply.
3. For the purposes of this Article, the “waiting period” shall be the period specified in a declaration of the Contracting State which is the primary insolvency jurisdiction.

4. References in this Article to the “insolvency administrator” shall be to that person in its official, not in its personal, capacity.
5. Unless and until the creditor is given the opportunity to take possession under paragraph 2:
 - (a) the insolvency administrator or the debtor, as applicable, shall preserve the aircraft object and maintain it and its value in accordance with the agreement; and
 - (b) the creditor shall be entitled to apply for any other forms of interim relief available under the applicable law.
6. Sub-paragraph (a) of the preceding paragraph shall not preclude the use of the aircraft object under arrangements designed to preserve the aircraft object and maintain it and its value.
7. The insolvency administrator or the debtor, as applicable, may retain possession of the aircraft object where, by the time specified in paragraph 2, it has cured all defaults other than a default constituted by the opening of insolvency proceedings and has agreed to perform all future obligations under the agreement. A second waiting period shall not apply in respect of a default in the ~~performance of such future obligations.~~
8. With regard to the remedies in Article 15(1):
 - (a) they shall be made available by the registry authority and the administrative authorities in a Contracting State, as applicable, no later than five working days after the date on which the creditor notifies such authorities that it is entitled to procure those remedies in accordance with this Convention; and
 - (b) the applicable authorities shall expeditiously co-operate with and assist the creditor in the exercise of such remedies in conformity with the applicable aviation safety laws and regulations.

9. No exercise of remedies permitted by this Convention may be prevented or delayed after the date specified in paragraph 2.
10. No obligations of the debtor under the agreement may be modified without the consent of the creditor.
11. Nothing in the preceding paragraph shall be construed to affect the authority, if any, of the insolvency administrator under the applicable law to terminate the agreement.
12. No rights or interests, except for non-consensual rights or interests of a category covered by a declaration pursuant to Article 52(1), shall have priority in insolvency proceedings over registered interests.
13. The provisions of this Convention shall apply to the exercise of any remedies under this Article.

Alternative B

2. Upon the occurrence of an insolvency-related event, the insolvency administrator or the debtor, as applicable, upon the request of the creditor, shall give notice to the creditor within the time specified in a declaration of a Contracting State pursuant to Article 71(3) whether it will:
 - (a) cure all defaults other than a default constituted by the opening of insolvency proceedings and agree to perform all future obligations, under the agreement and related transaction documents; or
 - (b) give the creditor the opportunity to take possession of the aircraft object, in accordance with the applicable law.
3. The applicable law referred to in sub-paragraph (b) of the preceding paragraph may permit the court to require the taking of any additional step or the provision of any additional guarantee.
4. The creditor shall provide evidence of its claims and proof that its international interest has been registered.

5. If the insolvency administrator or the debtor, as applicable, does not give notice in conformity with paragraph 2, or when the insolvency administrator or the debtor has declared that it will give the creditor the opportunity to take possession of the aircraft object but fails to do so, the court may permit the creditor to take possession of the aircraft object upon such terms as the court may order and may require the taking of any additional step or the provision of any additional guarantee.
6. The aircraft object shall not be sold pending a decision by a court regarding the claim and the international interest.

Article 24 - Insolvency assistance

1. This Article applies only where a Contracting State has made a declaration pursuant to Article 71(1).
2. The courts of a Contracting State in which an aircraft object is situated shall, in accordance with the law of the Contracting State, co-operate to the maximum extent possible with foreign courts and foreign insolvency administrators in carrying out the provisions of Article 23.

Article 25 - De-registration and export request authorisation

1. This Article applies only where a Contracting State has made a declaration pursuant to Article 71(1).
2. Where the debtor has issued an irrevocable de-registration and export request authorisation substantially in the form annexed to this Convention and has submitted such authorisation for recordation to the registry authority, that authorisation shall be so recorded.
3. The person in whose favour the authorisation has been issued (the "authorised party") or its certified designee shall be the sole person entitled to exercise the remedies specified in Article 15(1) and may

do so only in accordance with the authorisation and applicable aviation safety laws and regulations. Such authorisation may not be revoked by the debtor without the consent in writing of the authorised party. The registry authority shall remove an authorisation from the registry at the request of the authorised party.

4. The registry authority and other administrative authorities in Contracting States shall expeditiously co-operate with and assist the authorised party in the exercise of the remedies specified in Article 15.

Chapter IV **The international registration system**

Article 26 - The International Registry

1. An International Registry shall be established for registrations of:
 - (a) international interests, prospective international interests and registrable non-consensual rights and interests;
 - (b) assignments and prospective assignments of international interests;
 - (c) acquisitions of international interests by legal or contractual subrogations under the applicable law;
 - (d) notices of national interests; and
 - (e) subordinations of interests referred to in any of the preceding sub-paragraphs.
2. For the purposes of this Chapter and Chapter V, the term “registration” includes, where appropriate, an amendment, extension or discharge of a registration.

Article 27 - The Supervisory Authority

1. There shall be a Supervisory Authority which shall be the international entity designated by a Resolution adopted by the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol.
2. Where the international entity referred to in the preceding paragraph is not able and willing to act as Supervisory Authority, a Conference of Signatory and Contracting States shall be convened to designate another Supervisory Authority.

3. The Supervisory Authority may establish a commission of experts, from among persons nominated by Signatory and Contracting States and having the necessary qualifications and experience, and entrust it with the task of assisting the Supervisory Authority in the discharge of its functions.
4. The Supervisory Authority shall:
 - (a) establish or provide for the establishment of the International Registry;
 - (b) appoint and dismiss the Registrar;
 - (c) ensure that any rights required for the continued effective operation of the International Registry in the event of a change of Registrar will vest in or be assignable to the new Registrar;
 - (d) after consultation with the Contracting States, make or approve and ensure the publication of regulations dealing with the operation of the International Registry;
 - (e) establish administrative procedures through which complaints concerning the operation of the International Registry can be made to the Supervisory Authority;
 - (f) supervise the Registrar and the operation of the International Registry;
 - (g) at the request of the Registrar, provide such guidance to the Registrar as the Supervisory Authority thinks fit;
 - (h) set and periodically review the structure of fees to be charged for the services and facilities of the International Registry;
 - (i) do all things necessary to ensure that an efficient notice-based electronic registration system exists to implement the objectives of this Convention; and
 - (j) report periodically to Contracting States concerning the discharge of its obligations under this Convention.
5. The Supervisory Authority may enter into any agreement requisite for the performance of its functions, including any agreement referred to in Article 40(3).
6. The Supervisory Authority shall own all proprietary rights in the data bases and archives of the International Registry.

7. The first regulations shall be made by the Supervisory Authority so as to take effect upon the entry into force of the Convention and the Protocol.

Article 28 - The Registrar

1. The first Registrar shall operate the International Registry for a period of five years from the date of entry into force of the Convention and the Protocol. Thereafter, the Registrar shall be appointed or re-appointed at regular five-yearly intervals by the Supervisory Authority.
2. The Registrar shall ensure the efficient operation of the International Registry and perform the functions assigned to it by this Convention and the regulations.
3. The fees referred to in Article 27(4)(h) shall be determined so as to recover the reasonable costs of establishing, operating and regulating the International Registry and the reasonable costs of the Supervisory Authority associated with the performance of the functions, exercise of the powers, and discharge of the duties contemplated by Article 27(4) of this Convention.

Article 29 - Designated entry points

1. Subject to paragraph 2, a Contracting State may at any time designate an entity or entities in its territory as the entry point or entry points through which there shall or 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 53 in either case arising under the laws of another State. A Contracting State making such a designation may specify the requirements, if any, to be satisfied before such information is transmitted to the International Registry.
2. A designation made under the preceding paragraph may permit, but not compel, use of a designated entry point or entry points for information required for registrations in respect of aircraft engines.

Article 30 - Working hours of the registration facilities

The centralised functions of the International Registry shall be operated and administered by the Registrar on a twenty-four hour basis. The various entry points shall be operated at least during working hours in their respective territories.

Chapter V Modalities of registration
Article 31 - Registration requirements

1. In accordance with this Convention, the regulations shall specify the requirements, including the criteria for the identification of the aircraft object:
 - (a) for effecting a registration (which shall include provision for prior electronic transmission of any consent from any person whose consent is required under Article 33);
 - (b) for making searches and issuing search certificates; and, subject thereto,
 - (c) for ensuring the confidentiality of information and documents of the International Registry other than information and documents relating to a registration.
2. The Registrar shall not be under a duty to enquire whether a consent to registration under Article 33 has in fact been given or is valid.
3. Where an interest registered as a prospective international interest becomes an international interest, no further registration shall be required provided that the registration information is sufficient for a registration of an international interest.
4. The Registrar shall arrange for registrations to be entered into the International Registry data base and made searchable in chronological order of receipt, and the file shall record the date and time of receipt.

Article 32 - Validity and time of registration

1. A registration shall be valid only if made in conformity with Article 33.
2. A registration, if valid, shall be complete upon entry of the required information into the International Registry data base so as to be searchable.
3. A registration shall be searchable for the purposes of the preceding paragraph at the time when:
 - (a) the International Registry has assigned to it a sequentially ordered file number; and
 - (b) the registration information, including the file number, is stored in durable form and may be accessed at the International Registry.
4. If an interest first registered as a prospective international interest becomes an international interest, that international interest shall be treated as registered from the time of registration of the prospective international interest provided that the registration was still current immediately before the international interest was constituted as provided by Article 10.
5. The preceding paragraph applies with necessary modifications to the registration of a prospective assignment of an international interest.
6. A registration pertaining to an aircraft object shall be searchable in the International Registry data base according to the name of its manufacturer, its manufacturer's serial number and its model designation, supplemented as necessary to ensure uniqueness. Such supplementary information shall be specified in the regulations.

Article 33 - Consent to registration

1. An international interest, a prospective international interest or an assignment or prospective assignment of an international interest may be registered, and any such registration amended or extended prior to its expiry, by either party with the consent in writing of the other.

2. The subordination of an international interest to another international interest may be registered by or with the consent in writing at any time of the person whose interest has been subordinated.
3. A registration may be discharged by or with the consent in writing of the party in whose favour it was made.
4. The acquisition of an international interest by legal or contractual subrogation may be registered by the subrogee.
5. A registrable non-consensual right or interest may be registered by the holder thereof.
6. A notice of a national interest may be registered by the holder thereof.

Article 34 - Duration of registration

1. Registration of an international interest remains effective until discharged or until expiry of the period specified in the registration.
2. Registration of a contract of sale remains effective indefinitely. Registration of a prospective sale remains effective unless discharged or until expiry of the period, if any, specified in the registration.

Article 35 - Searches

1. Any person may, in the manner prescribed by this Convention and the regulations, make or request a search of the International Registry by electronic means concerning interests or prospective international interests registered therein.
2. Upon receipt of a request therefore, the Registrar, in the manner prescribed by the regulations, shall issue a registry search certificate by electronic means with respect to any aircraft object:
 - (a) stating all registered information relating thereto, together with a statement indicating the date and time of registration of such information; or

(b) stating that there is no information in the International Registry relating thereto.

3. A search certificate issued under the preceding paragraph shall indicate that the creditor named in the registration information has acquired or intends to acquire an international interest in the object but shall not indicate whether what is registered is an international interest or a prospective international interest, even if this is ascertainable from the relevant registration information.

Article 36 - List of declarations and declared non-consensual rights or interests

The Registrar shall maintain a list of declarations, withdrawals of declarations, and of 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 52 and 53 and the date of each such declaration or withdrawal of declaration. Such list shall be recorded and searchable in the name of the declaring State and shall be made available as provided in this Convention and the regulations to any person requesting it.

Article 37 - Evidentiary value of certificates

A document in the form prescribed by the regulations which purports to be a certificate issued by the International Registry is prima facie proof:

- (a) that it has been so issued; and
- (b) of the facts recited in it, including the date and time of a registration.

Article 38 - Discharge of registration

1. Where the obligations secured by a registered security interest or the obligations giving rise to a registered non-consensual right or interest have been discharged, or where the conditions of transfer of title under a registered title reservation agreement have been

- fulfilled, the holder of such interest shall, without undue delay, procure the discharge of the registration after written demand by the debtor delivered to or received at its address stated in the registration.
2. Where a prospective international interest or a prospective assignment of an international interest has been registered, the intending creditor or intending assignee shall, without undue delay, procure the discharge of the registration after written demand by the intending debtor or assignor which is delivered to or received at its address stated in the registration before the intending creditor or assignee has given value or incurred a commitment to give value.
 3. For the purpose of the preceding paragraph and in the circumstances there described, the holder of a registered prospective international interest or a registered prospective assignment of an international interest or the person in whose favour a prospective sale has been registered shall take such steps as are within its power to procure the discharge of the registration no later than five working days after the receipt of the demand described in such paragraph.
-
4. Where the obligations secured by a national interest specified in a registered notice of a national interest have been discharged, the holder of such interest shall, without undue delay, procure the discharge of the registration after written demand by the debtor delivered to or received at its address stated in the registration.
 5. Where a registration ought not to have been made or is incorrect, the person in whose favour the registration was made shall, without undue delay, procure its discharge or amendment after written demand by the debtor delivered to or received at its address stated in the registration.

Article 39 - Access to the international registration facilities

No person shall be denied access to the registration and search facilities of the International Registry on any ground other than its failure to comply with the procedures prescribed by this Chapter.

Chapter VI**Privileges and immunities of the Supervisory Authority and the Registrar****Article 40 - Legal personality; immunity**

1. The Supervisory Authority shall have international legal personality where not already possessing such personality.
2. The Supervisory Authority and its officers and employees shall enjoy such immunity from legal and administrative process as is provided under the rules applicable to them as an international entity or otherwise.
3. (a) The Supervisory Authority shall enjoy exemption from taxes and such other privileges as may be provided by agreement with the host State.

(b) For the purposes of this paragraph, “host State” means the State in which the Supervisory Authority is situated.
4. The assets, documents, data bases and archives of the International Registry shall be inviolable and immune from seizure or other legal or administrative process.
5. For the purposes of any claim against the Registrar under Article 41(1) or Article 56, the claimant shall be entitled to access to such information and documents as are necessary to enable the claimant to pursue its claim.
6. The Supervisory Authority may waive the inviolability and immunity conferred by paragraph 4 of this Article.

Chapter VII Liability of the Registrar
Article 41- Liability and financial assurances

1. The Registrar shall be liable for compensatory damages for loss suffered by a person directly resulting from an error or omission of the Registrar and its officers and employees or from a malfunction of the international registration system except where the malfunction is caused by an event of an inevitable and irresistible nature, which could not be prevented by using the best practices in current use in the field of electronic registry design and operation, including those related to back-up and systems security and networking.
2. The Registrar shall not be liable under the preceding paragraph for factual inaccuracy of registration information received by the Registrar or transmitted by the Registrar in the form in which it received that information nor for acts or circumstances for which the Registrar and its officers and employees are not responsible and arising prior to receipt of registration information at the International Registry.
3. Compensation under paragraph 1 may be reduced to the extent that the person who suffered the damage caused or contributed to that damage.
4. The Registrar shall procure insurance or a financial guarantee covering the liability referred to in this Article to the extent determined by the Supervisory Authority in accordance with the provisions of this Convention.
5. The amount of the insurance or financial guarantee referred to in the preceding paragraph shall, in respect of each event, not be less than the maximum value of an aircraft object as determined by the Supervisory Authority.
6. Nothing in this Convention shall preclude the Registrar from procuring insurance or a financial guarantee covering events for which the Registrar is not liable under this Article.

Chapter VIII**Effects of an international interest as against third parties****Article 42 - Priority of competing interests**

1. A registered interest has priority over any other interest subsequently registered and over an unregistered interest.
 2. The priority of the first-mentioned interest under the preceding paragraph applies:
 - (a) even if the first-mentioned interest was acquired or registered with actual knowledge of the other interest; and
 - (b) even as regards value given by the holder of the first-mentioned interest with such knowledge.
 3. A buyer of an aircraft object under a registered sale acquires its interest in that object free from an interest subsequently registered and from an unregistered interest, even if the buyer has actual knowledge of the unregistered interest.
 4. A buyer of an aircraft object acquires its interest in that object subject to an interest registered at the time of its acquisition.
-
5. A conditional buyer or lessee acquires its interest in or right over that object:
 - (a) subject to an interest registered prior to the registration of the international interest held by its conditional seller or lessor; and
 - (b) free from an interest not so registered at that time even if it has actual knowledge of that interest.
 6. The priority of competing interests or rights under this Article may be varied by agreement between the holders of those interests, but an assignee of a subordinated interest is not bound by an agreement to subordinate that interest unless at the time of the assignment a subordination had been registered relating to that agreement.

7. Any priority given by this Article to an interest in an aircraft object extends to proceeds.
8. This Convention:
 - (a) does not affect the rights of a person in an item, other than an aircraft object, held prior to its installation on an aircraft object if under the applicable law those rights continue to exist after the installation; and
 - (b) does not prevent the creation of rights in an item, other than an aircraft object, which has previously been installed on an aircraft object where under the applicable law those rights are created.
9. Ownership of or another right or interest in an aircraft engine shall not be affected by its installation on or removal from an aircraft.
10. Paragraph 8 of this Article applies to an item, other than an aircraft object, installed on an airframe, aircraft engine or helicopter.

Article 43 - Effects of insolvency

1. ~~In insolvency proceedings against the debtor an international~~ interest is effective if prior to the commencement of the insolvency proceedings that interest was registered in conformity with this Convention.
2. Nothing in this Article impairs the effectiveness of an international interest in the insolvency proceedings where that interest is effective under the applicable law.
3. Nothing in this Article affects any rules of law applicable in insolvency proceedings relating to the avoidance of a transaction as a preference or a transfer in fraud of creditors or any rules of procedure relating to the enforcement of rights to property which is under the control or supervision of the insolvency administrator.

Chapter IX**Assignments of associated rights and international interests; rights of subrogation****Article 44 - Effects of assignment**

1. Except as otherwise agreed by the parties, an assignment of associated rights made in conformity with Article 45 also transfers to the assignee:
 - (a) the related international interest; and
 - (b) all the interests and priorities of the assignor under this Convention.
2. Nothing in this Convention prevents a partial assignment of the assignor's associated rights. In the case of such a partial assignment the assignor and assignee may agree as to their respective rights concerning the related international interest assigned under the preceding paragraph but not so as adversely to affect the debtor without its consent.
3. Subject to paragraph 4, the applicable law shall determine the defences and rights of set-off available to the debtor against the assignee.
4. The debtor may at any time by agreement in writing waive all or any of the defences and rights of set-off referred to in the preceding paragraph other than defences arising from fraudulent acts on the part of the assignee.
5. In the case of an assignment by way of security, the assigned associated rights revert in the assignor, to the extent that they are still subsisting, when the obligations secured by the assignment have been discharged.

Article 45 - Formal requirements of assignment

1. An assignment of associated rights transfers the related international interest only if it:
 - (a) is in writing;
 - (b) enables the associated rights to be identified under the contract from which they arise; and
 - (c) in the case of an assignment by way of security, enables the obligations secured by the assignment to be determined in accordance with this Convention but without the need to state a sum or maximum sum secured.
2. An assignment of an international interest created or provided for by a security agreement is not valid unless some or all related associated rights are also assigned.
3. This Convention does not apply to an assignment of associated rights which is not effective to transfer the related international interest.

Article 46 - Debtor's duty to assignee

1. To the extent that associated rights and the related international interest have been transferred in accordance with Articles 44 and 45, the debtor in relation to those rights and that interest is bound by the assignment and has a duty to make payment or give other performance to the assignee, if but only if:
 - (a) the debtor has been given notice of the assignment in writing by or with the authority of the assignor;
 - (b) the notice identifies the associated rights; and
 - (c) the debtor has consented in writing, whether or not the consent is given in advance of the assignment or identifies the assignee.
2. Irrespective of any other ground on which payment or performance by the debtor discharges the latter from liability, payment or performance shall be effective for this purpose if made in accordance with the preceding paragraph.

3. Nothing in this Article shall affect the priority of competing assignments.

Article 47 - Default remedies in respect of assignment by way of security

In the event of default by the assignor under the assignment of associated rights and the related international interest made by way of security, Articles 12, 13 and 15 to 21 apply in the relations between the assignor and the assignee (and, in relation to associated rights, apply in so far as those provisions are capable of application to intangible property) as if references:

- (a) to the secured obligation and the security interest were references to the obligation secured by the assignment of the associated rights and the related international interest and the security interest created by that assignment;
- (b) to the chargee or creditor and chargor or debtor were references to the assignee and assignor;
- (c) to the holder of the international interest were references to the assignee; and
- (d) to the aircraft object were references to the assigned associated rights and the related international interest.

Article 48 - Priority of competing assignments

1. Where there are competing assignments of associated rights and at least one of the assignments includes the related international interest and is registered, the provisions of Article 42 apply as if the references to a registered interest were references to an assignment of the associated rights and the related registered interest and as if references to a registered or unregistered interest were references to a registered or unregistered assignment.
2. Article 43 applies to an assignment of associated rights as if the references to an international interest were references to an assignment of the associated rights and the related international interest.

Article 49 - Assignee's priority with respect to associated rights

1. The assignee of associated rights and the related international interest whose assignment has been registered only has priority under Article 48(1) over another assignee of the associated rights:
 - (a) if the contract under which the associated rights arise states that they are secured by or associated with the object; and
 - (b) to the extent that the associated rights are related to an aircraft object.
2. For the purpose of sub-paragraph (b) of the preceding paragraph, associated rights are related to an aircraft object only to the extent that they consist of rights to payment or performance that relate to:
 - (a) a sum advanced and utilised for the purchase of the aircraft object;
 - (b) a sum advanced and utilised for the purchase of another aircraft object in which the assignor held another international interest if the assignor transferred that interest to the assignee and the assignment has been registered;
 - (c) the price payable for the aircraft object;
 - (d) the rentals payable in respect of the aircraft object; or
 - (e) other obligations arising from a transaction referred to in any of the preceding sub-paragraphs.
3. In all other cases, the priority of the competing assignments of the associated rights shall be determined by the applicable law.

Article 50 - Effects of assignor's insolvency

The provisions of Article 43 apply to insolvency proceedings against the assignor as if references to the debtor were references to the assignor.

Article 51 - Subrogation

1. Subject to paragraph 2, nothing in this Convention affects the acquisition of associated rights and the related international interest by legal or contractual subrogation under the applicable law.

2. The priority between any interest within the preceding paragraph and a competing interest may be varied by agreement in writing between the holders of the respective interests but an assignee of a subordinated interest is not bound by an agreement to subordinate that interest unless at the time of the assignment a subordination had been registered relating to that agreement.

Chapter X

Rights or interests subject to declarations by Contracting States

Article 52 - Rights having priority without registration

1. A Contracting State may at any time, in a declaration deposited with the Depositary of the Protocol declare, generally or specifically:
 - (a) those categories of non-consensual right or interest (other than a right or interest to which Article 53 applies) which under that State's law have priority over an interest in an aircraft object equivalent to that of the holder of a registered international interest and which shall have priority over a registered international interest, whether in or outside insolvency proceedings; and
 - (b) that nothing in this Convention shall affect the right of a State or State entity, intergovernmental organisation or other private provider of public services to arrest or detain an aircraft object under the laws of that State for payment of amounts owed to such entity, organisation or provider directly relating to those services in respect of that object or another aircraft object.
2. A declaration made under the preceding paragraph may be expressed to cover categories that are created after the deposit of that declaration.
3. A non-consensual right or interest has priority over an international interest if and only if the former is of a category covered by a declaration deposited prior to the registration of the international interest.

4. Notwithstanding the preceding paragraph, a Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that a right or interest of a category covered by a declaration made under sub-paragraph (a) of paragraph 1 shall have priority over an international interest registered prior to the date of such ratification, acceptance, approval or accession.

Article 53 - Registrable non-consensual rights or interests

A Contracting State may at any time in a declaration deposited with the Depositary of the Protocol list the categories of non-consensual right or interest which shall be registrable under this Convention as regards any aircraft object as if the right or interest were an international interest and shall be regulated accordingly. Such a declaration may be modified from time to time.

Chapter XI Jurisdiction

Article 54 - Choice of forum

1. Subject to Articles 55 and 56, the courts of a Contracting State chosen by the parties to a transaction have jurisdiction in respect of ~~any claim brought under this Convention, whether or not the chosen~~ forum has a connection with the parties or the transaction. Such jurisdiction shall be exclusive unless otherwise agreed between the parties.
2. Any such agreement shall be in writing or otherwise concluded in accordance with the formal requirements of the law of the chosen forum.

Article 55 - Jurisdiction under Article 20

1. The courts of a Contracting State chosen by the parties in conformity with Article 54 and the courts of the Contracting State on the territory of which the aircraft object is situated or in which the

aircraft is registered have jurisdiction to grant relief under Article 20(1)(a), (b), (c), and Article 20(8) in respect of that aircraft object or aircraft.

2. Jurisdiction to grant relief under Article 20(1)(d) and (e) or other interim relief by virtue of

Article 20(8) may be exercised either:

- (a) by the courts chosen by the parties; or
- (b) by the courts of a Contracting State on the territory of which the debtor is situated, being relief which, by the terms of the order granting it, is enforceable only in the territory of that Contracting State.

3. A court has jurisdiction under the preceding paragraphs even if the final determination of the claim referred to in Article 20(1) will or may take place in a court of another Contracting State or by arbitration.

Article 56 - Jurisdiction to make orders against the Registrar

1. The courts of the place in which the Registrar has its centre of ~~administration shall have exclusive jurisdiction to award damages or make orders against the Registrar.~~
2. Where a person fails to respond to a demand made under Article 38 and that person has ceased to exist or cannot be found for the purpose of enabling an order to be made against it requiring it to procure discharge of the registration, the courts referred to in the preceding paragraph shall have exclusive jurisdiction, on the application of the debtor or intending debtor, to make an order directed to the Registrar requiring the Registrar to discharge the registration.
3. Where a person fails to comply with an order of a court having jurisdiction under this Convention or, in the case of a national

interest, an order of a court of competent jurisdiction requiring that person to procure the amendment or discharge of a registration, the courts referred to in paragraph 1 may direct the Registrar to take such steps as will give effect to that order.

4. Except as otherwise provided by the preceding paragraphs, no court may make orders or give judgments or rulings against or purporting to bind the Registrar.

Article 57 - Waivers of sovereign immunity

1. Subject to paragraph 2, a waiver of sovereign immunity from jurisdiction of the courts specified in Article 54 or 55 of this Convention or relating to enforcement of rights and interests relating to an aircraft object under this Convention shall be binding and, if the other conditions to such jurisdiction or enforcement have been satisfied, shall be effective to confer jurisdiction and permit enforcement, as the case may be.
2. A waiver under the preceding paragraph must be in writing and contain a description of the aircraft object.

Article 58 - Jurisdiction in respect of insolvency proceedings

The provisions of this Chapter are not applicable to insolvency proceedings.

Chapter XII Relationship with other Conventions

Article 59 - Relationship with the United Nations Convention on the Assignment of Receivables in International Trade

This Convention shall prevail over the United Nations Convention on the Assignment of Receivables in International Trade, opened for signature in New York on 12 December 2001, as it relates to the assignment of receivables which are associated rights related to international interests in aircraft objects.

Article 60 - Relationship with the Convention on the International Recognition of Rights in Aircraft

This Convention shall, for a Contracting State that is a Party to the Convention on the International Recognition of Rights in Aircraft, signed at Geneva on 19 June 1948, supersede that Convention as it relates to aircraft, as defined in this Convention, and to aircraft objects. However, with respect to rights or interests not covered or affected by the present Convention, the Geneva Convention shall not be superseded.

Article 61 - Relationship with the Convention for the Unification of Certain Rules Relating to the Precautionary Attachment of Aircraft

1. This Convention shall, for a Contracting State that is a Party to the Convention for the Unification of Certain Rules Relating to the Precautionary Attachment of Aircraft, signed at Rome on 29 May 1933, supersede that Convention as it relates to aircraft, as defined in this Convention.
2. A Contracting State that is a Party to the above Convention may declare, at the time of ratification, acceptance, approval of, or accession to the Protocol, that it will not apply this Article.

Article 62 - Relationship with the UNIDROIT Convention on International Financial Leasing

This Convention shall supersede the UNIDROIT Convention on International Financial Leasing, signed at Ottawa on 28 May 1988, as it relates to aircraft objects.

**Chapter XIII
FINAL PROVISIONS**

Article 63 - Signature, ratification, acceptance, approval or accession

(See Article 47 of the Convention and Article XXVI of the Protocol)

Article 64 - Regional Economic Integration Organisations

1. A Regional Economic Integration Organisation which is constituted by sovereign States and has competence over certain matters governed by the Convention and the Protocol may similarly sign, accept, approve or accede to the Convention and the Protocol. The Regional Economic Integration Organisation shall in that case have the rights and obligations of a Contracting State, to the extent that that Organisation has competence over matters governed by the Convention and the Protocol. Where the number of Contracting States is relevant in the Convention and the Protocol, the Regional Economic Integration Organisation shall not count as a Contracting State in addition to its Member States which are Contracting States.
2. The Regional Economic Integration Organisation shall, at the time of signature, acceptance, approval or accession, make a declaration ~~to the Depositary specifying the matters governed by the~~ Convention and the Protocol in respect of which competence has been transferred to that Organisation by its Member States. The Regional Economic Integration Organisation shall promptly notify the Depositary of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.
3. Any reference to a “Contracting State” or “Contracting States” or “State Party” or “States Parties” in the Convention and the Protocol applies equally to a Regional Economic Integration Organisation where the context so requires.

Article 65 - Entry into force

(See Article 49 of the Convention and Article XXVIII of the Protocol)

Article 66 - Internal transactions

1. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that this Convention shall not apply to a transaction which is an internal transaction in relation to that State with regard to all types of aircraft objects or some of them.
2. Notwithstanding the preceding paragraph, the provisions of Articles 12(3), 13(1), 26, Chapter V, Article 42, and any provisions of this Convention relating to registered interests shall apply to an internal transaction.
3. Where notice of a national interest has been registered in the International Registry, the priority of the holder of that interest under Article 42 shall not be affected by the fact that such interest has become vested in another person by assignment or subrogation under the applicable law.

Article 67 - Future Protocols

(See Article 51 of the Convention)

Article 68 - Territorial units

(See Article 52 of the Convention and Article XXIX of the Protocol)

Article 69 - Determination of courts

A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare the relevant “court” or “courts” for the purposes of Article 1 and Chapter XI of this Convention.

Article 70 - Declarations regarding remedies

1. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that while the charged aircraft object is situated within, or controlled from its territory the chargee shall not grant a lease of the object in that territory.

2. A Contracting State shall, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare whether or not any remedy available to the creditor under any provision of this Convention which is not there expressed to require application to the court may be exercised only with leave of the court.

Article 71 - Declarations relating to certain provisions

1. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that it will apply anyone or more of Articles 9, 24 and 25 of this Convention.
 2. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that it will apply the provisions of Article 20(2), (3), (5), (7) and (9) wholly or in part. If it so declares with respect to Article 20(2), it shall specify the time-period required thereby. A Contracting State may also declare that it will not apply the provisions of Article 20(1), (4), (6), and (8), and of Article 55, wholly or in part; such declaration shall specify under which conditions the relevant Article will be applied, in case it will be applied partly, or otherwise which other forms of interim relief will be applied.
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3. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that it will apply the entirety of Alternative A, or the entirety of Alternative B of Article 23 and, if so, shall specify the types of insolvency proceeding, if any, to which it will apply Alternative A and the types of insolvency proceeding, if any, to which it will apply Alternative B. A Contracting State making a declaration pursuant to this paragraph shall specify the time-period required by Article 23.
 4. The courts of Contracting States shall apply Article 23 in conformity with the declaration made by the Contracting State which is the primary insolvency jurisdiction.

Article 72 - Reservations and declarations

1. No reservations may be made to this Convention but declarations authorised by Articles 52, 53, 61, 66, 68, 69, 70, 71, 73, 74 and 76 may be made in accordance with these provisions.
2. Any declaration or subsequent declaration or any withdrawal of a declaration made under this Convention shall be notified in writing to the Depositary.

Article 73 - Subsequent declarations

1. A State Party may make a subsequent declaration, other than a declaration authorised under Article 76, at any time after the date on which the Convention and the Protocol have entered into force for it, by notifying the Depositary to that effect.
 2. Any such subsequent declaration shall take effect on the first day of the month following the expiration of six months after the date of receipt of the notification by the Depositary. Where a longer period for that declaration to take effect is specified in the notification, it shall take effect upon the expiration of such longer period after receipt of the notification by the Depositary.
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3. Notwithstanding the previous paragraphs, this Convention shall continue to apply, as if no such subsequent declarations had been made, in respect of all rights and interests arising prior to the effective date of any such subsequent declaration.

Article 74 - Withdrawal of declarations

1. Any State Party having made a declaration under this Convention, other than a declaration authorised under Article 76, may withdraw it at any time by notifying the Depositary. Such withdrawal is to take effect on the first day of the month following the expiration of six months after the date of receipt of the notification by the Depositary.

2. Notwithstanding the previous paragraph, this Convention shall continue to apply, as if no such withdrawal of declaration had been made, in respect of all rights and interests arising prior to the effective date of any such withdrawal.

Article 75 - Denunciations

1. Any State Party may denounce the Convention, or the Protocol or both by notification in writing to the Depositary.
2. Any such denunciation shall take effect on the first day of the month following the expiration of twelve months after the date of receipt of the notification by the Depositary.
3. Notwithstanding the previous paragraphs, this Convention shall continue to apply, as if no such denunciation had been made, in respect of all rights and interests arising prior to the effective date of any such denunciation.

Article 76 - Transitional provisions

1. Unless otherwise declared by a Contracting State at any time, this Convention does not apply to a pre-existing right or interest, which retains the priority it enjoyed under the applicable law before the effective date of the Convention.
2. For the purposes of Article 1(h) and of determining priority under this Convention:
 - (a) “effective date of this Convention” means in relation to a debtor the time when the Convention enters into force or the time when the State in which the debtor is situated becomes a Contracting State, whichever is the later; and
 - (b) the debtor is situated in a State where it has its centre of administration or, if it has no centre of administration, its place of business or, if it has more than one place of business, its principal place of business or, if it has no place of business, its habitual residence.

3. A Contracting State may in its declaration under paragraph 1 specify a date, not earlier than three years after the date on which the declaration becomes effective, when the Convention will become applicable, for the purpose of determining priority, including the protection of any existing priority, to pre-existing rights or interests arising under an agreement made at a time when the debtor was situated in a State referred to in sub-paragraph (b) of the preceding paragraph but only to the extent and in the manner specified in its declaration.

Article 77 - Review Conferences, amendments and related matters

1. The Depositary, in consultation with the Supervisory Authority, shall prepare reports yearly or at such other time 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.
2. At the request of not less than twenty-five per cent of the States Parties, Review Conferences of States Parties shall be convened from time to time by the Depositary, in consultation with the Supervisory Authority, to consider:
 - (a) the practical operation of this Convention and its effectiveness in facilitating the asset-based financing and leasing of the aircraft objects covered by its terms;
 - (b) the judicial interpretation given to, and the application made of the terms of this Convention and the regulations;
 - (c) the functioning of the international registration system, the performance of the Registrar and its oversight by the Supervisory Authority, taking into account the reports of the Supervisory Authority; and

- (d) whether any modifications to this Convention or the arrangements relating to the International Registry are desirable.
- 3. Subject to paragraph 4, any amendment to the Convention or the Protocol shall be approved by at least a two-thirds majority of States Parties participating in the Conference referred to in the preceding paragraph and shall then enter into force in respect of States which have ratified, accepted or approved such amendment when ratified, accepted, or approved by States in accordance with the provisions of Article 65 relating to their entry into force.
- 4. Where the proposed amendment to the Convention is intended to apply to more than one category of equipment, such amendment shall also be approved by at least a two-thirds majority of States Parties to each Protocol that are participating in the Conference referred to in paragraph 2.

Article 78 - Depositary and its functions

- 1. Instruments of ratification, acceptance, approval of or accession to the Convention and the Protocol, shall be deposited with the International Institute for the Unification of Private Law (UNIDROIT), which is hereby designated the Depositary.
- 2. The Depositary shall:
 - (a) inform all Contracting States of:
 - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;
 - (ii) the date of entry into force of the Convention and the Protocol;
 - (iii) each declaration made in accordance with this Convention, together with the date thereof;
 - (iv) the withdrawal or amendment of any declaration, together with the date thereof; and

- (v) the notification of any denunciation of the Convention and the Protocol together with the date thereof and the date on which it takes effect;
- (b) transmit certified true copies of the Convention and the Protocol to all Contracting States;
- (c) provide the Supervisory Authority and the Registrar with a copy of each instrument of ratification, acceptance, approval or accession, together with the date of deposit thereof, of each declaration or withdrawal or amendment of a declaration and of each notification of denunciation, together with the date of notification thereof, so that the information contained therein is easily and fully available; and
- (d) perform such other functions customary for depositaries.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorised, have signed the Convention and the Protocol.

ANNEX

FORM OF IRREVOCABLE DE-REGISTRATION AND EXPORT REQUEST AUTHORISATION

Annex referred to in Article 25 [Insert Date]

To: [Insert Name of Registry Authority]

Re: Irrevocable De-Registration and Export Request Authorisation

The undersigned is the registered[operator] [owner]* of the [insert the airframe / helicopter manufacturer name and model number] bearing manufacturer's serial number [insert manufacturer's serial number] and registration [number] [mark] [insert registration number / mark] (together with all installed, incorporated or attached accessories, parts and equipment, the "aircraft").

This instrument is an irrevocable de-registration and export request authorisation issued by the undersigned in favour of [insert name of creditor] (“the authorised party”) under the authority of Article 25 of this Convention. In accordance with that Article, the undersigned hereby requests:

- (i) recognition that the authorised party or the person it certifies as its designee is the sole person entitled to:
 - (a) procure the de-registration of the aircraft from the [insert name of aircraft register] maintained by the [insert name of registry authority] for the purposes of Chapter III of the *Convention on International Civil Aviation*, signed at Chicago, on 7 December 1944; and
 - (b) procure the export and physical transfer of the aircraft from [insert name of country]; and
- (ii) confirmation that the authorised party or the person it certifies as its designee may take the action specified in clause (i) above on written demand without the consent of the undersigned and that, upon such demand, the authorities in [insert name of country] shall co-operate with the authorised party with a view to the speedy completion of such action.

The rights in favour of the authorised party established by this instrument may not be revoked by the undersigned without the written consent of the authorised party.

* Select the term that reflects the relevant nationality registration criterion.

Please acknowledge your agreement to this request and its terms by appropriate notation in the space provided below and lodging this instrument in [insert name of registry authority].

[insert name of operator/owner]

Agreed to and lodged this [insert date]

By: [insert name of signatory] Its: [insert title of signatory]
[insert relevant notational details]

**PART B: THE PROTOCOL TO THE CONVENTION ON
INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON
MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT**

THE STATES PARTIES TO THIS PROTOCOL,

CONSIDERING it necessary to implement the Convention *on International Interests in Mobile Equipment* (hereinafter referred to as “the Convention”) as it relates to aircraft equipment, in the light of the purposes set out in the preamble to the Convention,

MINDFUL of the need to adapt the Convention to meet the particular requirements of aircraft finance and to extend the sphere of application of the Convention to include contracts of sale of aircraft equipment,

MINDFUL of the principles and objectives of the *Convention on International Civil Aviation*, signed at Chicago on 7 December 1944,

HAVE AGREED upon the following provisions relating to aircraft equipment:

Chapter I

Sphere of application and general provisions

Article I - Defined terms

1. In this Protocol, except where the context otherwise requires, terms used in it have the meanings set out in the Convention.
2. In this Protocol the following terms are employed with the meanings set out below:
 - (a) “aircraft” means aircraft as defined for the purposes of the Chicago Convention which are either airframes with aircraft engines installed thereon or helicopters;
 - (b) “aircraft engines” means aircraft engines (other than those used in military, customs or police services) powered by jet propulsion or turbine or piston technology and:

- (i) in the case of jet propulsion aircraft engines, have at least 1750 lb of thrust or its equivalent; and
 - (ii) in the case of turbine-powered or piston-powered aircraft engines, have at least 550 rated take-off shaft horsepower or its equivalent,together with all modules and other installed, incorporated or attached accessories, parts and equipment and all data, manuals and records relating thereto;
- (c) “aircraft objects” means airframes, aircraft engines and helicopters;
- (d) “aircraft register” means a register maintained by a State or a common mark registering authority for the purposes of the Chicago Convention;
- (e) “airframes” means airframes (other than those used in military, customs or police services) that, when appropriate aircraft engines are installed thereon, are type certified by the competent aviation authority to transport:
 - (i) at least eight (8) persons including crew; or
 - (ii) goods in excess of 2750 kilograms,together with all installed, incorporated or attached accessories, parts and equipment (other than aircraft engines), and all data, manuals and records relating thereto;
- (f) “authorised party” means the party referred to in Article XIII (3);
- (g) “Chicago Convention” means the *Convention on International Civil Aviation*, signed at Chicago on 7 December 1944, as amended, and its Annexes;
- (h) “common mark registering authority” means the authority maintaining a register in accordance with Article 77 of the

Chicago Convention as implemented by the Resolution adopted on 14 December 1967 by the Council of the International Civil Aviation Organization on nationality and registration of aircraft operated by international operating agencies;

- (i) “de-registration of the aircraft” means deletion or removal of the registration of the aircraft from its aircraft register in accordance with the Chicago Convention;
- (j) “guarantee contract” means a contract entered into by a person as guarantor;
- (k) “guarantor” means a person who, for the purpose of assuring performance of any obligations in favour of a creditor secured by a security agreement or under an agreement, gives or issues a suretyship or demand guarantee or a standby letter of credit or any other form of credit insurance;
- (l) “helicopters” means heavier-than-air machines (other than those used in military, customs or police services) supported in flight chiefly by the reactions of the air on one or more power-driven rotors on substantially vertical axes and which are type certified by the competent aviation authority to transport:
 - (i) at least five (5) persons including crew; or
 - (ii) goods in excess of 450 kilograms, together with all installed, incorporated or attached accessories, parts and equipment (including rotors), and all data, manuals and records relating thereto;
- (m) “insolvency-related event” means:
 - (i) the commencement of the insolvency proceedings; or
 - (ii) the declared intention to suspend or actual suspension of payments by the debtor where the creditor’s right to institute insolvency proceedings

against the debtor or to exercise remedies under the Convention is prevented or suspended by law or State action;

- (n) “primary insolvency jurisdiction” means the Contracting State in which the centre of the debtor’s main interests is situated, which for this purpose shall be deemed to be the place of the debtor’s statutory seat or, if there is none, the place where the debtor is incorporated or formed, unless proved otherwise;
- (o) “registry authority” means the national authority or the common mark registering authority, maintaining an aircraft register in a Contracting State and responsible for the registration and de-registration of an aircraft in accordance with the Chicago Convention; and
- (p) “State of registry” means, in respect of an aircraft, the State on the national register of which an aircraft is entered or the State of location of the common mark registering authority maintaining the aircraft register.

Article II - Application of Convention as regards aircraft objects

1. The Convention shall apply in relation to aircraft objects as provided by the terms of this Protocol.
2. The Convention and this Protocol shall be known as the Convention on International Interests in Mobile Equipment as applied to aircraft objects.

Article III - Application of Convention to sales

The following provisions of the Convention apply as if references to an agreement creating or providing for an international interest were references to a contract of sale and as if references to an international interest, a prospective international interest, the debtor and the creditor were references to a sale, a prospective sale, the seller and the buyer respectively:

Articles 3 and 4; Article 16(1)(a); Article 19(4);

Article 20(1) (as regards registration of a contract of sale or a prospective sale); Article 25(2) (as regards a prospective sale); and Article 30.

In addition, the general provisions of Article 1, Article 5, Chapters IV to VII, Article 29 (other than Article 29(3) which is replaced by Article XIV(1) and (2), Chapter X, Chapter XII (other than Article 43), Chapter XIII and Chapter XIV (other than Article 60) shall apply to contracts of sale and prospective sales.

Article IV - Sphere of application

1. Without prejudice to Article 3(1) of the Convention, the Convention shall also apply in relation to a helicopter, or to an airframe pertaining to an aircraft, registered in an aircraft register of a Contracting State which is the State of registry, and where such registration is made pursuant to an agreement for registration of the aircraft it is deemed to have been effected at the time of the agreement.
2. For the purposes of the definition of “internal transaction” in Article 1 of the Convention:
 - (a) an airframe is located in the State of registry of the aircraft of which it is a part;
 - (b) an aircraft engine is located in the State of registry of the aircraft on which it is installed or, if it is not installed on an aircraft, where it is physically located; and
 - (c) a helicopter is located in its State of registry,

at the time of the conclusion of the agreement creating or providing for the interest.

3. The parties may, by agreement in writing, exclude the application of Article XI and, in their relations with each other, derogate from or vary the effect of any of the provisions of this Protocol except Article IX (2)-(4).

Article V - Formalities, effects and registration of contracts of sale

1. For the purposes of this Protocol, a contract of sale is one which:
 - (a) is in writing;

- (b) relates to an aircraft object of which the seller has power to dispose; and
 - (c) enables the aircraft object to be identified in conformity with this Protocol.
- 2. A contract of sale transfers the interest of the seller in the aircraft object to the buyer according to its terms.
- 3. Registration of a contract of sale remains effective indefinitely. Registration of a prospective sale remains effective unless discharged or until expiry of the period, if any, specified in the registration.

Article VI - Representative capacities

A person may enter into an agreement or a sale, and register an international interest in, or a sale of, an aircraft object, in an agency, trust or other representative capacity. In such case, that person is entitled to assert rights and interests under the Convention.

Article VII - Description of aircraft objects

A description of an aircraft object that contains its manufacturer's serial number, the name of the manufacturer and its model designation is necessary and sufficient to identify the object for the purposes of Article 7 (c) of the Convention and Article V (1)(c) of this Protocol.

Article VIII - Choice of law

- 1. This Article applies only where a Contracting State has made a declaration pursuant to Article XXX(1).
- 2. The parties to an agreement, or a contract of sale, or a related guarantee contract or subordination agreement may agree on the law which is to govern their contractual rights and obligations, wholly or in part.
- 3. Unless otherwise agreed, the reference in the preceding paragraph to the law chosen by the parties is to the domestic rules of law of the

designated State or, where that State comprises several territorial units, to the domestic law of the designated territorial unit.

Chapter II

Default remedies, priorities and assignments

Article IX - Modification of default remedies provisions

1. In addition to the remedies specified in Chapter III of the Convention, the creditor may, to the extent that the debtor has at any time so agreed and, in the circumstances, specified in that Chapter:
 - (a) procure the de-registration of the aircraft; and
 - (b) procure the export and physical transfer of the aircraft object from the territory in which it is situated.
2. The creditor shall not exercise the remedies specified in the preceding paragraph without the prior consent in writing of the holder of any registered interest ranking in priority to that of the creditor.
3. Article 8(3) of the Convention shall not apply to aircraft objects. Any remedy given by the Convention in relation to an aircraft object shall be exercised in a commercially reasonable manner. A remedy shall be deemed to be exercised in a commercially reasonable manner where it is exercised in conformity with a provision of the agreement except where such a provision is manifestly unreasonable.
4. A chargee giving ten or more working days' prior written notice of a proposed sale or lease to interested persons shall be deemed to satisfy the requirement of providing "reasonable prior notice" specified in Article 8(4) of the Convention. The foregoing shall not prevent a chargee and a chargor or a guarantor from agreeing to a longer period of prior notice.

5. The registry authority in a Contracting State shall, subject to any applicable safety laws and regulations, honour a request for de-registration and export if:
 - (a) the request is properly submitted by the authorised party under a recorded irrevocable deregistration and export request authorisation; and
 - (b) the authorised party certifies to the registry authority, if required by that authority, that all registered interests ranking in priority to that of the creditor in whose favour the authorisation has been issued have been discharged or that the holders of such interests have consented to the de-registration and export.
6. A charge proposing to procure the de-registration and export of an aircraft under paragraph 1 otherwise than pursuant to a court order shall give reasonable prior notice in writing of the proposed de-registration and export to:
 - (a) interested persons specified in Article 1(m)(i) and (ii) of the Convention; and
 - (b) interested persons specified in Article 1(m)(iii) of the Convention who have given notice of their rights to the chargee within a reasonable time prior to the de-registration and export.

Article X - Modification of provisions regarding relief pending final determination

1. This Article applies only where a Contracting State has made a declaration under Article XXX (2) and to the extent stated in such declaration.
2. For the purposes of Article 13(1) of the Convention, “speedy” in the context of obtaining relief means within such number of working days from the date of filing of the application for relief as is specified in a declaration made by the Contracting State in which the application is made.

3. Article 13(1) of the Convention applies with the following being added immediately after sub-paragraph (d):

“(e) if at any time the debtor and the creditor specifically agree, sale and application of proceeds therefrom”,
and Article 43(2) applies with the insertion after the words “Article 13(1)(d)” of the words “and (e)”.
4. Ownership or any other interest of the debtor passing on a sale under the preceding paragraph is free from any other interest over which the creditor’s international interest has priority under the provisions of Article 29 of the Convention.
5. The creditor and the debtor or any other interested person may agree in writing to exclude the application of Article 13(2) of the Convention.
6. With regard to the remedies in Article IX(1):
 - (a) they shall be made available by the registry authority and other administrative authorities, as applicable, in a Contracting State no later than five working days after the creditor notifies such authorities that the relief specified in Article IX(1) is granted or, in the case of relief granted by a foreign court, recognised by a court of that Contracting State, and that the creditor is entitled to procure those remedies in accordance with the Convention; and
 - (b) the applicable authorities shall expeditiously co-operate with and assist the creditor in the exercise of such remedies in conformity with the applicable aviation safety laws and regulations.
7. Paragraphs 2 and 6 shall not affect any applicable aviation safety laws and regulations.

Article XI - Remedies on insolvency

1. This Article applies only where a Contracting State that is the primary insolvency jurisdiction has made a declaration pursuant to Article XXX (3).

Alternative A

2. Upon the occurrence of an insolvency-related event, the insolvency administrator or the debtor, as applicable, shall, subject to paragraph 7, give possession of the aircraft object to the creditor no later than the earlier of:
 - (a) the end of the waiting period; and
 - (b) the date on which the creditor would be entitled to possession of the aircraft object if this Article did not apply.
3. For the purposes of this Article, the “waiting period” shall be the period specified in a declaration of the Contracting State which is the primary insolvency jurisdiction.
4. References in this Article to the “insolvency administrator” shall be to that person in its official, not in its personal, capacity.
5. Unless and until the creditor is given the opportunity to take possession under paragraph 2:
 - (a) the insolvency administrator or the debtor, as applicable, shall preserve the aircraft object and maintain it and its value in accordance with the agreement; and
 - (b) the creditor shall be entitled to apply for any other forms of interim relief available under the applicable law.
6. Sub-paragraph (a) of the preceding paragraph shall not preclude the use of the aircraft object under arrangements designed to preserve the aircraft object and maintain it and its value.
7. The insolvency administrator or the debtor, as applicable, may retain possession of the aircraft object where, by the time specified in paragraph 2, it has cured all defaults other than a default constituted

by the opening of insolvency proceedings and has agreed to perform all future obligations under the agreement. A second waiting period shall not apply in respect of a default in the performance of such future obligations.

8. With regard to the remedies in Article IX(1):
 - (a) they shall be made available by the registry authority and the administrative authorities in a Contracting State, as applicable, no later than five working days after the date on which the creditor notifies such authorities that it is entitled to procure those remedies in accordance with the Convention; and
 - (b) the applicable authorities shall expeditiously co-operate with and assist the creditor in the exercise of such remedies in conformity with the applicable aviation safety laws and regulations.
9. No exercise of remedies permitted by the Convention or this Protocol may be prevented or delayed after the date specified in paragraph 2.
10. No obligations of the debtor under the agreement may be modified without the consent of the creditor.
11. Nothing in the preceding paragraph shall be construed to affect the authority, if any, of the insolvency administrator under the applicable law to terminate the agreement.
12. No rights or interests, except for non-consensual rights or interests of a category covered by a declaration pursuant to Article 39(1), shall have priority in insolvency proceedings over registered interests.
13. The Convention as modified by Article IX of this Protocol shall apply to the exercise of any remedies under this Article.

Alternative B

2. Upon the occurrence of an insolvency-related event, the insolvency administrator or the debtor, as applicable, upon the request of the creditor, shall give notice to the creditor within the time specified in a declaration of a Contracting State pursuant to Article XXX (3) whether it will:
 - (a) cure all defaults other than a default constituted by the opening of insolvency proceedings and agree to perform all future obligations, under the agreement and related transaction documents; or
 - (b) give the creditor the opportunity to take possession of the aircraft object, in accordance with the applicable law.
3. The applicable law referred to in sub-paragraph (b) of the preceding paragraph may permit the court to require the taking of any additional step or the provision of any additional guarantee.
4. The creditor shall provide evidence of its claims and proof that its international interest has been registered.
5. If the insolvency administrator or the debtor, as applicable, does not give notice in conformity with paragraph 2, or when the insolvency administrator or the debtor has declared that it will give the creditor the opportunity to take possession of the aircraft object but fails to do so, the court may permit the creditor to take possession of the aircraft object upon such terms as the court may order and may require the taking of any additional step or the provision of any additional guarantee.
6. The aircraft object shall not be sold pending a decision by a court regarding the claim and the international interest.

Article XII - Insolvency assistance

1. This Article applies only where a Contracting State has made a declaration pursuant to Article XXX(1).

2. The courts of a Contracting State in which an aircraft object is situated shall, in accordance with the law of the Contracting State, co-operate to the maximum extent possible with foreign courts and foreign insolvency administrators in carrying out the provisions of Article XI.

**Article XIII - De-registration and
export request authorisation**

1. This Article applies only where a Contracting State has made a declaration pursuant to Article XXX(1).
2. Where the debtor has issued an irrevocable de-registration and export request authorisation substantially in the form annexed to this Protocol and has submitted such authorisation for recordation to the registry authority, that authorisation shall be so recorded.
3. The person in whose favour the authorisation has been issued (the “authorised party”) or its certified designee shall be the sole person entitled to exercise the remedies specified in Article IX(1) and may do so only in accordance with the authorisation and applicable aviation safety laws and regulations. Such authorisation may not be revoked by the debtor without the consent in writing of the authorised party. The registry authority shall remove an authorisation from the registry at the request of the authorised party.
4. The registry authority and other administrative authorities in Contracting States shall expeditiously co-operate with and assist the authorised party in the exercise of the remedies specified in Article IX.

Article XIV - Modification of priority provisions

1. A buyer of an aircraft object under a registered sale acquires its interest in that object free from an interest subsequently registered and from an unregistered interest, even if the buyer has actual knowledge of the unregistered interest.

2. A buyer of an aircraft object acquires its interest in that object subject to an interest registered at the time of its acquisition.
3. Ownership of or another right or interest in an aircraft engine shall not be affected by its installation on or removal from an aircraft.
4. Article 29(7) of the Convention applies to an item, other than an object, installed on an airframe, aircraft engine or helicopter.

Article XV - Modification of assignment provisions

Article 33(1) of the Convention applies as if the following were added immediately after sub-paragraph (b):

“and (c) the debtor has consented in writing, whether or not the consent is given in advance of the assignment or identifies the assignee.”

Article XVI - Debtor provisions

1. In the absence of a default within the meaning of Article 11 of the Convention, the debtor shall be entitled to the quiet possession and use of the object in accordance with the agreement as against:
 - (a) ~~its creditor and the holder of any interest from which the~~ debtor takes free pursuant to Article 29(4) of the Convention or, in the capacity of buyer, Article XIV (1) of this Protocol, unless and to the extent that the debtor has otherwise agreed; and
 - (b) the holder of any interest to which the debtor's right or interest is subject pursuant to Article 29(4) of the Convention or, in the capacity of buyer, Article XIV (2) of this Protocol, but only to the extent, if any, that such holder has agreed.
2. Nothing in the Convention or this Protocol affects the liability of a creditor for any breach of the agreement under the applicable law in so far as that agreement relates to an aircraft object.

Chapter III**Registry provisions relating to international interests in aircraft objects****Article XVII - The Supervisory Authority and the Registrar**

1. The Supervisory Authority shall be the international entity designated by a Resolution adopted by the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol.
2. Where the international entity referred to in the preceding paragraph is not able and willing to act as Supervisory Authority, a Conference of Signatory and Contracting States shall be convened to designate another Supervisory Authority.
3. The Supervisory Authority and its officers and employees shall enjoy such immunity from legal and administrative process as is provided under the rules applicable to them as an international entity or otherwise.
4. The Supervisory Authority may establish a commission of experts, ~~from among persons nominated by Signatory and Contracting States~~ and having the necessary qualifications and experience, and entrust it with the task of assisting the Supervisory Authority in the discharge of its functions.
5. The first Registrar shall operate the International Registry for a period of five years from the date of entry into force of this Protocol. Thereafter, the Registrar shall be appointed or reappointed at regular five-yearly intervals by the Supervisory Authority.

Article XVIII - First regulations

The first regulations shall be made by the Supervisory Authority so as to take effect upon the entry into force of this Protocol.

Article XIX - Designated entry points

1. Subject to paragraph 2, a Contracting State may at any time designate an entity or entities in its territory as the entry point or entry points through which there shall or 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 in either case arising under the laws of another State.
2. A designation made under the preceding paragraph may permit, but not compel, use of a designated entry point or entry points for information required for registrations in respect of aircraft engines.

Article XX - Additional modifications to Registry provisions

1. For the purposes of Article 19(6) of the Convention, the search criteria for an aircraft object shall be the name of its manufacturer, its manufacturer's serial number and its model designation, supplemented as necessary to ensure uniqueness. Such supplementary information shall be specified in the regulations.
2. For the purposes of Article 25(2) of the Convention and in the circumstances there described, the holder of a registered prospective international interest or a registered prospective assignment of an international interest or the person in whose favour a prospective sale has been registered shall take such steps as are within its power to procure the discharge of the registration no later than five working days after the receipt of the demand described in such paragraph.
3. The fees referred to in Article 17(2)(h) of the Convention shall be determined so as to recover the reasonable costs of establishing, operating and regulating the International Registry and the reasonable costs of the Supervisory Authority associated with the performance of the functions, exercise of the powers, and discharge of the duties contemplated by Article 17(2) of the Convention.

4. The centralised functions of the International Registry shall be operated and administered by the Registrar on a twenty-four hour basis. The various entry points shall be operated at least during working hours in their respective territories.
5. The amount of the insurance or financial guarantee referred to in Article 28(4) of the Convention shall, in respect of each event, not be less than the maximum value of an aircraft object as determined by the Supervisory Authority.
6. Nothing in the Convention shall preclude the Registrar from procuring insurance or a financial guarantee covering events for which the Registrar is not liable under Article 28 of the Convention.

Chapter IV Jurisdiction

Article XXI - Modification of jurisdiction provisions

For the purposes of Article 43 of the Convention and subject to Article 42 of the Convention, a court of a Contracting State also has jurisdiction where the object is a helicopter, or an airframe pertaining to an aircraft, for which that State is the State of registry.

Article XXII - Waivers of sovereign immunity

1. Subject to paragraph 2, a waiver of sovereign immunity from jurisdiction of the courts specified in Article 42 or Article 43 of the Convention or relating to enforcement of rights and interests relating to an aircraft object under the Convention shall be binding and, if the other conditions to such jurisdiction or enforcement have been satisfied, shall be effective to confer jurisdiction and permit enforcement, as the case may be.
2. A waiver under the preceding paragraph must be in writing and contain a description of the aircraft object.

Chapter V

Relationship with other conventions

Article XXIII - Relationship with the Convention on the International Recognition of Rights in Aircraft

The Convention shall, for a Contracting State that is a party to the *Convention on the International Recognition of Rights in Aircraft*, signed at Geneva on 19 June 1948, supersede that Convention as it relates to aircraft, as defined in this Protocol, and to aircraft objects. However, with respect to rights or interests not covered or affected by the present Convention, the Geneva Convention shall not be superseded.

Article XXIV - Relationship with the Convention for the Unification of Certain Rules Relating to the Precautionary Attachment of Aircraft

1. The Convention shall, for a Contracting State that is a Party to the *Convention for the Unification of Certain Rules Relating to the Precautionary Attachment of Aircraft*, signed at Rome on 29 May 1933, supersede that Convention as it relates to aircraft, as defined in this Protocol.
2. A Contracting State Party to the above Convention may declare, at the time of ratification, acceptance, approval of, or accession to this Protocol, that it will not apply this Article.

Article XXV - Relationship with the UNIDROIT Convention on International Financial Leasing

The Convention shall supersede the *UNIDROIT Convention on International Financial Leasing*, signed at Ottawa on 28 May 1988, as it relates to aircraft objects.

Chapter VI

Final provisions

Article XXVI - Signature, ratification, acceptance, approval or accession

1. This Protocol shall be open for signature in Cape Town on 16 November 2001 by States participating in the Diplomatic Conference to Adopt a Mobile Equipment Convention and an

Aircraft Protocol held at Cape Town from 29 October to 16 November 2001. After 16 November 2001, this Protocol shall be open to all States for signature at the Headquarters of the International Institute for the Unification of Private Law (UNIDROIT) in Rome until it enters into force in accordance with Article XXVIII.

2. This Protocol shall be subject to ratification, acceptance or approval by States which have signed it.
3. Any State which does not sign this Protocol may accede to it at any time.
4. Ratification, acceptance, approval or accession is effected by the deposit of a formal instrument to that effect with the Depositary.
5. A State may not become a Party to this Protocol unless it is or becomes also a Party to the Convention.

Article XXVII - Regional Economic Integration Organisations

1. A Regional Economic Integration Organisation which is constituted by sovereign States and has competence over certain matters governed by this Protocol may similarly sign, accept, approve or accede to this Protocol. The Regional Economic Integration Organisation shall in that case have the rights and obligations of a Contracting State, to the extent that that Organisation has competence over matters governed by this Protocol. Where the number of Contracting States is relevant in this Protocol, the Regional Economic Integration Organisation shall not count as a Contracting State in addition to its Member States which are Contracting States.
2. The Regional Economic Integration Organisation shall, at the time of signature, acceptance, approval or accession, make a declaration to the Depositary specifying the matters governed by this Protocol in respect of which competence has been transferred to that

Organisation by its Member States. The Regional Economic Integration Organisation shall promptly notify the Depositary of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.

3. Any reference to a “Contracting State” or “Contracting States” or “State Party” or “States Parties” in this Protocol applies equally to a Regional Economic Integration Organisation where the context so requires.

Article XXVIII - Entry into force

1. This Protocol enters 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, between the States which have deposited such instruments.
2. For other States this Protocol enters into force on the first day of the month following the expiration of three months after the date of the deposit of its instrument of ratification, acceptance, approval or accession.

Article XXIX - Territorial units

1. If a Contracting State has territorial units in which different systems of law are applicable in relation to the matters dealt with in this Protocol, it may, at the time of ratification, acceptance, approval or accession, declare that this Protocol is to extend to all its territorial units or only to one or more of them and may modify its declaration by submitting another declaration at any time.
2. Any such declaration shall state expressly the territorial units to which this Protocol applies.
3. If a Contracting State has not made any declaration under paragraph 1, this Protocol shall apply to all territorial units of that State.

4. Where a Contracting State extends this Protocol to one or more of its territorial units, declarations permitted under this Protocol may be made in respect of each such territorial unit, and the declarations made in respect of one territorial unit may be different from those made in respect of another territorial unit.
5. If by virtue of a declaration under paragraph 1, this Protocol extends to one or more territorial units of a Contracting State:
 - (a) the debtor is considered to be situated in a Contracting State only if it is incorporated or formed under a law in force in a territorial unit to which the Convention and this Protocol apply or if it has its registered office or statutory seat, centre of administration, place of business or habitual residence in a territorial unit to which the Convention and this Protocol apply;
 - (b) any reference to the location of the object in a Contracting State refers to the location of the object in a territorial unit to which the Convention and this Protocol apply; and
 - (c) any reference to the administrative authorities in that Contracting State shall be construed as referring to the administrative authorities having jurisdiction in a territorial unit to which the Convention and this Protocol apply and any reference to the national register or to the registry authority in that Contracting State shall be construed as referring to the aircraft register in force or to the registry authority having jurisdiction in the territorial unit or units to which the Convention and this Protocol apply.

Article XXX - Declarations relating to certain provisions

1. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will apply anyone or more of Articles VIII, XII and XIII of this Protocol.

2. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will apply Article X of this Protocol, wholly or in part. If it so declares with respect to Article X (2), it shall specify the time-period required thereby.
3. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will apply the entirety of Alternative A, or the entirety of Alternative B of Article XI and, if so, shall specify the types of insolvency proceeding, if any, to which it will apply Alternative A and the types of insolvency proceeding, if any, to which it will apply Alternative B. A Contracting State making a declaration pursuant to this paragraph shall specify the time-period required by Article XI.
4. The courts of Contracting States shall apply Article XI in conformity with the declaration made by the Contracting State which is the primary insolvency jurisdiction.
5. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will not apply the provisions of Article XXI, wholly or in part. The declaration shall specify under which conditions the relevant Article will be applied, in case it will be applied partly, or otherwise which other forms of interim relief will be applied.

Article XXXI - Declarations under the Convention

Declarations made under the Convention, including those made under Articles 39, 40, 50, 53, 54, 55, 57, 58 and 60 of the Convention, shall be deemed to have also been made under this Protocol unless stated otherwise.

Article XXXII - Reservations and declarations

1. No reservations may be made to this Protocol but declarations authorised by Articles XXIV, XXIX, XXX, XXXI, XXXIII and XXXIV may be made in accordance with these provisions.

2. Any declaration or subsequent declaration or any withdrawal of a declaration made under this Protocol shall be notified in writing to the Depositary.

Article XXXIII - Subsequent declarations

1. A State Party may make a subsequent declaration, other than a declaration made in accordance with Article XXXI under Article 60 of the Convention, at any time after the date on which this Protocol has entered into force for it, by notifying the Depositary to that effect.
2. Any such subsequent declaration shall take effect on the first day of the month following the expiration of six months after the date of receipt of the notification by the Depositary. Where a longer period for that declaration to take effect is specified in the notification, it shall take effect upon the expiration of such longer period after receipt of the notification by the Depositary.
3. Notwithstanding the previous paragraphs, this Protocol shall continue to apply, as if no such subsequent declarations had been made, in respect of all rights and interests arising prior to the effective date of any such subsequent declaration.

Article XXXIV - Withdrawal of declarations

1. Any State Party having made a declaration under this Protocol, other than a declaration made in accordance with Article XXXI under Article 60 of the Convention, may withdraw it at any time by notifying the Depositary. Such withdrawal is to take effect on the first day of the month following the expiration of six months after the date of receipt of the notification by the Depositary.
2. Notwithstanding the previous paragraph, this Protocol shall continue to apply, as if no such withdrawal of declaration had been made, in respect of all rights and interests arising prior to the effective date of any such withdrawal.

Article XXXV - Denunciations

1. Any State Party may denounce this Protocol by notification in writing to the Depositary.
2. Any such denunciation shall take effect on the first day of the month following the expiration of twelve months after the date of receipt of the notification by the Depositary.
3. Notwithstanding the previous paragraphs, this Protocol shall continue to apply, as if no such denunciation had been made, in respect of all rights and interests arising prior to the effective date of any such denunciation.

Article XXXVI - Review Conferences, amendments and related matters

1. The Depositary, in consultation with the Supervisory Authority, shall prepare reports yearly, or at such other time as the circumstances may require, for the States Parties as to the manner in which the international regime established in the 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.
2. At the request of not less than twenty-five per cent of the States Parties, Review Conferences of the States Parties shall be convened from time to time by the Depositary, in consultation with the Supervisory Authority, to consider:
 - (a) the practical operation of the Convention as amended by this Protocol and its effectiveness in facilitating the asset-based financing and leasing of the objects covered by its terms;
 - (b) the judicial interpretation given to, and the application made of the terms of this Protocol and the regulations;

- (c) the functioning of the international registration system, the performance of the Registrar and its oversight by the Supervisory Authority, taking into account the reports of the Supervisory Authority; and
 - (d) whether any modifications to this Protocol or the arrangements relating to the International Registry are desirable.
- 3. Any amendment to this Protocol shall be approved by at least a two-thirds majority of States Parties participating in the Conference referred to in the preceding paragraph and shall then enter into force in respect of States which have ratified, accepted or approved such amendment when it has been ratified, accepted or approved by eight States in accordance with the provisions of Article XXVIII relating to its entry into force.

Article XXXVII - Depositary and its functions

- 1. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Institute for the Unification of Private Law (UNIDROIT) which is hereby designated the Depositary.
-
- 2. The Depositary shall:
 - (a) inform all Contracting States of:
 - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;
 - (ii) the date of entry into force of this Protocol;
 - (iii) each declaration made in accordance with this Protocol, together with the date thereof;
 - (iv) the withdrawal or amendment of any declaration, together with the date thereof; and
 - (v) the notification of any denunciation of this Protocol together with the date thereof and the date on which it takes effect;

- (b) transmit certified true copies of this Protocol to all Contracting States;
- (c) provide the Supervisory Authority and the Registrar with a copy of each instrument of ratification, acceptance, approval or accession, together with the date of deposit thereof, of each declaration or withdrawal or amendment of a declaration and of each notification of denunciation, together with the date of notification thereof, so that the information contained therein is easily and fully available; and
- (d) perform such other functions customary for depositaries.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorised, have signed this Protocol.

DONE at Cape Town, this sixteenth day of November, two thousand and one, in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic, such authenticity to take effect upon verification by the Joint Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the conformity of the texts with one another.

ANNEX
FORM OF IRREVOCABLE DE-REGISTRATION AND EXPORT
REQUEST AUTHORISATION

Annex referred to in Article XIII [Insert Date]

To: [Insert Name of Registry Authority]

Re: Irrevocable De-Registration and Export Request Authorisation

The undersigned is the registered [operator] [owner]* of the [insert the airframe/helicopter manufacturer name and model number] bearing manufacturers serial number [insert manufacturer's serial number] and registration [number] [mark] [insert registration number/mark] (together

with all installed, incorporated or attached accessories, parts and equipment, the “aircraft”).

This instrument is an irrevocable de-registration and export request authorisation issued by the undersigned in favour of [insert name of creditor] (“the authorised party”) under the authority of Article XIII of the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment. In accordance with that Article, the undersigned hereby requests:

- (i) recognition that the authorised party or the person it certifies as its designee is the sole person entitled to:

- (a) procure the de-registration of the aircraft from the [insert name of aircraft register] maintained by the [insert name of registry authority] for the purposes of Chapter III of the *Convention on International Civil Aviation*, signed at Chicago, on 7th December 1944, and

- (b) procure the export and physical transfer of the aircraft from [insert name of country]; and

- (ii) confirmation that the authorised party or the person it certifies as its designee may take the action specified in clause (i) above on written demand without the consent of the undersigned and that, upon such demand, the authorities in [insert name of country] shall co-operate with the authorised party with a view to the speedy completion of such action.

The rights in favour of the authorised party established by this instrument may not be revoked by the undersigned without the written consent of the authorised party.

* Select the term that reflects the relevant nationality registration criterion.

Please acknowledge your agreement to this request and its terms by appropriate notation in the space provided below and lodging this instrument in [insert name of registry authority].

[insert name of operator/owner]

Agreed to and lodged this [insert date]

By: [insert name of signatory] Its: [insert title of signatory]

FIFTH SCHEDULE

(section 36(5))

**CONVENTION FOR THE SUPPRESSION OF THE UNLAWFUL
SEIZURE OF AIRCRAFT**

PREAMBLE

THE STATES PARTIES TO THIS CONVENTION

CONSIDERING that unlawful acts of seizure or exercise of control of aircraft in flight jeopardize the safety of persons and property, seriously affect the operation of air services and undermine the confidence of the peoples of the world in the safety of civil aviation;

CONSIDERING that the occurrence of such acts is a matter of grave concern;

CONSIDERING that for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

HAVE AGREED AS FOLLOWS:

Article 1

Any person who on board an aircraft in flight:

- (a) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act, or
 - (b) is an accomplice of a person who performs or attempts to perform any such act
- commits an offence (hereinafter referred to as “the offence”).

Article 2

Each Contracting State undertakes to make the offence punishable by severe penalties.

Article 3

1. For the purposes of this Convention, an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing, with the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board.
 2. This Convention shall not apply to aircraft used in military, customs or police services.
 3. This Convention shall apply only if the place of take-off or the place of actual landing of the aircraft on board which the offence is committed is situated outside the territory of the State of registration of that aircraft; it shall be immaterial whether the aircraft is engaged in an international or domestic flight.
 4. In the cases mentioned in Article 5, this Convention shall not apply if the place of take-off and the place of actual landing of the aircraft on board which the offence is committed are situated within the territory of the same State where that State is one of those referred to in that Article.
-
5. Notwithstanding paragraphs 3 and 4 of this Article, Articles 6, 7, 8 and 10 shall apply whatever the place of take-off or the place of actual landing of the aircraft, if the offender or the alleged offender is found in the territory of a State other than the State of registration of that aircraft.

Article 4

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offence and any other act of violence against passengers or crew committed by the alleged offender in connection with the offence, in the following cases:
 - (a) when the offence is committed on board an aircraft registered in that State;

- (b) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
 - (c) when the offence is committed on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence in that State.
- 2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offence in the case where the alleged offender is pre-sent in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph I of this Article.
- 3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 5

The Contracting States which establish joint air transport operating organisations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

Article 6

- 1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.
- 2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.
4. When a State, pursuant to this Article, has taken a person into custody it of the aircraft the State mentioned in Article 4, paragraph 1(c), the State of nationality of the detained person and if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 7

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State shall immediately notify the State of registration.

Article 8

1. The offence shall be deemed to be included as an extraditable offence in any extradition treaty existing between Contracting States. Contracting States undertake to include the offence as an extraditable offence in every extradition treaty to be concluded between them.
2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offence. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offence as an extraditable offence between themselves subject to the conditions provided by the law of the requested State.
4. The offence shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 4, paragraph 1.

Article 9

1. When any of the acts mentioned in Article 1(a) has occurred or is about to occur, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.
2. In the cases contemplated by the preceding paragraph, any Contracting State in which the aircraft or its passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

Article 10

1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offence and other acts mentioned in Article 4. The law of the State requested shall apply in all cases.
2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

Article 11

Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation

Organisation as promptly as possible any relevant information in its possession concerning:

- (a) the circumstances of the offence;
- (b) the action taken pursuant to Article 9;
- (c) the measures taken in relation to the offender or the alleged offender, and, in particular, the results of any extradition proceedings or other legal proceedings.

Article 12

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration, the Parties are unable to agree on the organization of the arbitration any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.
3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

Article 13

1. This Convention shall be open for signature at The Hague on 16 December 1970, by States participating in the International Conference on Air Law held at The Hague from 1 to 16 December 1970 (hereinafter referred to as The Hague Conference). After 7th December 1970, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does not sign this Convention before its entry into force in accordance with paragraph 1 of this Article may accede to it at any time.

2. This Convention shall be subject to ratification by the signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, which are hereby designated the Depositary Governments.
 3. This Convention shall enter into force thirty days following the date of the deposit of instruments of ratification by ten States signatory to this Convention which participated in The Hague Conference.
 4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 5 of this Article, or thirty days following the date of deposit of their instruments of ratification or accession, whichever is later.
 5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of entry into force of this Convention and other notices.
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6. As soon as this Convention comes into force, it shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago 1944).

Article 14

1. Any Contracting State may denounce this Convention by written notification to the Depositary Governments.
2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments this Convention by written notification to the Depositary Governments.

IN WITNESS WHEREOF the undersigned Plenipotentiaries being duly authorised thereto by their Governments have signed this Convention.

DONE at The Hague, this sixteenth day of December, one thousand nine hundred and seventy, in three originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.

SIXTH SCHEDULE

(section 36(6))

**CONVENTION ON THE SUPPRESSION OF UNLAWFUL ACTS
RELATING TO INTERNATIONAL CIVIL AVIATION AND THE
PROTOCOL SUPPLEMENTARY TO THE CONVENTION FOR
THE SUPPRESSION OF THE UNLAWFUL SEIZURE OF
AIRCRAFT**

THE STATES PARTIES TO THIS CONVENTION,

DEEPLY CONCERNED that unlawful acts against civil aviation jeopardize the safety and security of persons and property, seriously affect the operation of air services, airports and air navigation, and undermine the confidence of the peoples of the world in the safe and orderly conduct of civil aviation for all States;

RECOGNIZING that new types of threats against civil aviation require new concerted efforts and policies of cooperation on the part of States; and

BEING CONVINCED that in order to better address these threats, there is an urgent need to strengthen the legal framework for international cooperation in preventing and suppressing unlawful acts against civil aviation;

HAVE AGREED AS FOLLOWS:

Article 1

1. Any person commits an offence if that person unlawfully and intentionally:
 - (a) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or

- (b) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or
 - (c) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or
 - (d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight; or
 - (e) communicates information which that person knows to be false, thereby endangering the safety of an aircraft in flight; or
 - (f) uses an aircraft in service for the purpose of causing death, serious bodily injury, or serious damage to property or the environment; or
-
- (g) releases or discharges from an aircraft in service any BCN weapon or explosive, radioactive, or similar substances in a manner that causes or is likely to cause death, serious bodily injury or serious damage to property or the environment; or
 - (h) uses against or on board an aircraft in service any BCN weapon or explosive, radioactive, or similar substances in a manner that causes or is likely to cause death, serious bodily injury or serious damage to property or the environment; or

(i) transports, causes to be transported, or facilitates the transport of, on board an aircraft:

- (1) any explosive or radioactive material, knowing that it is intended to be used to cause, or in a threat to cause, with or without a condition, as is provided for under national law, death or serious injury or damage for the purpose of intimidating a population, or compelling a government or an international organization to do or to abstain from doing any act; or
 - (2) any BCN weapon, knowing it to be a BCN weapon as defined in Article 2; or
 - (3) any source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to a safeguards agreement with the International Atomic Energy Agency; or
 - (4) any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a BCN weapon without lawful authorization and with the intention that it will be used for such purpose;
-

provided that for activities involving a State Party, including those undertaken by a person or legal entity authorised by a State Party, it shall not be an offence under subparagraphs (3) and (4) if the transport of such items or materials is consistent with or is for a use or activity that is consistent with its rights, responsibilities and obligations under the applicable multilateral non-proliferation treaty to which it is a party including those referred to in Article 7.

2. Any person commits an offence if that person unlawfully and intentionally, using any device, substance or weapon:
 - (a) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or
 - (b) destroys or seriously damages the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupts the services of the airport, if such an act endangers or is likely to endanger safety at that airport.
3. Any person also commits an offence if that person:
 - (a) makes a threat to commit any of the offences in subparagraphs (a), (b), (c), (d), (f), (g) and (h) of paragraph 1 or in paragraph 2 of this Article; or
 - (b) unlawfully and intentionally causes any person to receive such a threat, under circumstances which indicate that the threat is credible.
4. Any person also commits an offence if that person:
 - (a) attempts to commit any of the offences set forth in paragraph 1 or 2 of this Article; or
 - (b) organises or directs others to commit an offence set forth in paragraph 1, 2, 3 or 4(a) of this Article; or
 - (c) participates as an accomplice in an offence set forth in paragraph 1, 2, 3 or 4(a) of this Article; or
 - (d) unlawfully and intentionally assists another person to evade investigation, prosecution or punishment, knowing that the person has committed an act that constitutes an offence set forth in paragraph 1, 2, 3, 4(a), 4(b) or 4(c) of this Article, or that the person is wanted for criminal prosecution by law enforcement authorities for such an offence or has been sentenced for such an offence.

5. Each State Party shall also establish as offences, when committed intentionally, whether or not any of the offences set forth in paragraph 1, 2 or 3 of this Article is actually committed or attempted, either or both of the following:
- (a) agreeing with one or more other persons to commit an offence set forth in paragraph 1, 2 or 3 of this Article and, where required by national law, involving an act undertaken by one of the participants in furtherance of the agreement; or
 - (b) contributing in any other way to the commission of one or more offences set forth in paragraph 1, 2 or 3 of this Article by a group of persons acting with a common purpose, and such contribution shall either:
 - (i) be made with the aim of furthering the general criminal activity or purpose of the group, where such activity or purpose involves the commission of an offence set forth in paragraph 1, 2 or 3 of this Article; or
 - (ii) be made in the knowledge of the intention of the group to commit an offence set forth in paragraph 1, 2 or 3 of this Article.

Article 2

For the purposes of this Convention:

- (a) an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation; in the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board;
- (b) an aircraft is considered to be in service from the beginning of the preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight as defined in paragraph (a) of this Article;

- (c) “Air navigation facilities” include signals, data, information or systems necessary for the navigation of the aircraft;
- (d) “Toxic chemical” means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere;
- (e) “Radioactive material” means nuclear material and other radioactive substances which contain nuclides which undergo spontaneous disintegration (a process accompanied by emission of one or more types of ionizing radiation, such as alpha-, beta-, neutron particles and gamma rays) and which may, owing to their radiological or fissile properties, cause death, serious bodily injury or substantial damage to property or to the environment;
- (f) “Nuclear material” means plutonium, except that with isotopic concentration exceeding 80 per cent in plutonium-238; uranium-233; uranium enriched in the isotope 235 or 233; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore residue; or any material containing one or more of the foregoing;
- (g) “Uranium enriched in the isotope 235 or 233” means uranium containing the isotope 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature;
- (h) “BCN weapon” means:
 - (a) “biological weapons”, which are:

- (i) microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; or
 - (ii) weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.
- (b) “chemical weapons”, which are, together or separately:
- (i) toxic chemicals and their precursors, except where intended for:
 - (a) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes; or
 - (b) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons; or
 - (c) military purposes not connected with the use of chemical weapons and not dependent on ~~the use of the toxic properties of chemicals as~~ a method of warfare; or
 - (d) law enforcement including domestic riot control purposes, as long as the types and quantities are consistent with such purposes;
 - (ii) munitions and devices specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (b)(i), which would be released as a result of the employment of such munitions and devices;
 - (iii) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (b)(ii).

- (c) nuclear weapons and other nuclear explosive devices.
- (i) “Precursor” means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multicomponent chemical system;
- (j) the terms “source material” and “special fissionable material” have the same meaning as given to those terms in the Statute of the International Atomic Energy Agency, done at New York on 26th October 1956.

Article 3

Each State Party undertakes to make the offences set forth in Article 1 punishable by severe penalties.

Article 4

1. Each State Party, in accordance with its national legal principles, may take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for management or control of that legal entity has, in that capacity, committed an offence set forth in Article 1. Such liability may be criminal, civil or administrative.
2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.
3. If a State Party takes the necessary measures to make a legal entity liable in accordance with paragraph 1 of this Article, it shall endeavour to ensure that the applicable criminal, civil or administrative sanctions are effective, proportionate and dissuasive. Such sanctions may include monetary sanctions.

Article 5

1. This Convention shall not apply to aircraft used in military, customs or police services.
2. In the cases contemplated in subparagraphs *(a)*, *(b)*, *(c)*, *(e)*, *(f)*, *(g)*, *(h)* and *(i)* of paragraph 1 of Article 1, this Convention shall apply irrespective of whether the aircraft is engaged in an international or domestic flight, only if:
 - (a)* the place of take-off or landing, actual or intended, of the aircraft is situated outside the territory of the State of registry of that aircraft; or
 - (b)* the offence is committed in the territory of a State other than the State of registry of the aircraft.
3. Notwithstanding paragraph 2 of this Article, in the cases contemplated in subparagraphs *(a)*, *(b)*, *(c)*, *(e)*, *(f)*, *(g)*, *(h)* and *(i)* of paragraph 1 of Article 1, this Convention shall also apply if the offender or the alleged offender is found in the territory of a State other than the State of registry of the aircraft.
4. With respect to the States Parties mentioned in Article 15 and in ~~the cases set forth in subparagraphs *(a)*, *(b)*, *(c)*, *(e)*, *(f)*, *(g)*, *(h)* and *(i)*~~ of paragraph 1 of Article 1, this Convention shall not apply if the places referred to in subparagraph *(a)* of paragraph 2 of this Article are situated within the territory of the same State where that State is one of those referred to in Article 15, unless the offence is committed or the offender or alleged offender is found in the territory of a State other than that State.
5. In the cases contemplated in subparagraph *(d)* of paragraph 1 of Article 1, this Convention shall apply only if the air navigation facilities are used in international air navigation.
6. The provisions of paragraphs 2, 3, 4 and 5 of this Article shall also apply in the cases contemplated in paragraph 4 of Article 1.

Article 6

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations, the Convention on International Civil Aviation and international humanitarian law
2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law are not governed by this Convention, and the activities undertaken by military forces of a State in the exercise of their official duties, in as much as they are governed by other rules of international law, are not governed by this Convention.
3. The provisions of paragraph 2 of this Article shall not be interpreted as condoning or making lawful otherwise unlawful acts, or precluding prosecution under other laws.

Article 7

Nothing in this Convention shall affect the rights, obligations and responsibilities under the Treaty on the Non-Proliferation of Nuclear Weapons, signed at London, Moscow and Washington on 1 July 1968, the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, signed at London, Moscow and Washington on 10 April 1972, or the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, signed at Paris on 13 January 1993, of States Parties to such treaties.

Article 8

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in Article 1 in the following cases:
 - (a) when the offence is committed in the territory of that State;

- (b) when the offence is committed against or on board an aircraft registered in that State;
 - (c) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
 - (d) when the offence is committed against or on board an aircraft leased without crew to a lessee whose principal place of business or, if the lessee has no such place of business, whose permanent residence is in that State;
 - (e) when the offence is committed by a national of that State.
- 2. Each State Party may also establish its jurisdiction over any such offence in the following cases:
 - (a) when the offence is committed against a national of that State;
 - (b) when the offence is committed by a stateless person whose habitual residence is in the territory of that State.
- 3. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in Article 1, in the case where the alleged offender is present in its territory and it does not extradite that person pursuant to Article 12 to any of the States Parties that have established their jurisdiction in accordance with the applicable paragraphs of this Article with regard to those offences.
- 4. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 9

- 1. Upon being satisfied that the circumstances so warrant, any State Party in the territory of which the offender or the alleged offender is present, shall take that person into custody or take other measures to ensure that person's presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.
3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which that person is a national.
4. When a State Party, pursuant to this Article, has taken a person into custody, it shall immediately notify the States Parties which have established jurisdiction under paragraph 1 of Article 8 and established jurisdiction and notified the Depositary under subparagraph (a) of paragraph 4 of Article 21 and, if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant that person's detention. The State Party which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States Parties and shall indicate whether it intends to exercise jurisdiction.

Article 10

~~The State Party in the territory of which the alleged offender is found~~ shall, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

Article 11

Any person who is taken into custody, or regarding whom any other measures are taken or proceedings are being carried out pursuant to this Convention, shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international human rights law.

1. The offences set forth in Article 1 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include the offences as extraditable offences in every extradition treaty to be concluded between them.
2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offences set forth in Article 1. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in Article 1 as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Each of the offences shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties required to establish their jurisdiction in accordance with subparagraphs (b), (c), (d) and (e) of paragraph 1 of Article 8, and who have established jurisdiction in accordance with paragraph 2 of Article 8.
5. The offences set forth in subparagraphs (a) and (b) of paragraph 5 of Article 1 shall, for the purpose of extradition between States Parties, be treated as equivalent.

Article 13

None of the offences set forth in Article 1 shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual

legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 14

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in Article 1 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinion or gender, or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 15

The States Parties which establish joint air transport operating organisations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registry for the purpose of this Convention and shall give notice thereof to the Secretary General of the International Civil Aviation Organisation who shall communicate the notice to all States Parties to this Convention.

Article 16

1. States Parties shall, in accordance with international and national law, endeavour to take all practicable measures for the purpose of preventing the offences set forth in Article 1.
2. When, due to the commission of one of the offences set forth in Article 1, a flight has been delayed or interrupted, any State Party in whose territory the aircraft or passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

Article 17

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in Article 1. The law of the State requested shall apply in all cases.
2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

Article 18

Any State Party having reason to believe that one of the offences set forth in Article 1 will be committed shall, in accordance with its national law, furnish any relevant information in its possession to those States Parties which it believes would be the States set forth in paragraphs 1 and 2 of Article 8.

Article 19

Each State Party shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning:

- (a) the circumstances of the offence;
- (b) the action taken pursuant to paragraph 2 of Article 16;
- (c) the measures taken in relation to the offender or the alleged offender and, in particular, the results of any extradition proceedings or other legal proceedings.

Article 20

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be

submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other States Parties shall not be bound by the preceding paragraph with respect to any State Party having made such a reservation.
3. Any State Party having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary.

Article 21

1. This Convention shall be open for signature in Beijing on 10 September 2010 by States participating in the Diplomatic Conference on Aviation Security held at Beijing from 30 August to 10 September 2010. After 27 September 2010, this Convention shall be open to all States for signature at the Headquarters of the International Civil Aviation Organization in Montréal until it enters into force in accordance with Article 22.
2. This Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the International Civil Aviation Organisation, who is hereby designated as the Depositary.
3. Any State which does not ratify, accept or approve this Convention in accordance with paragraph 2 of this Article may accede to it at any time. The instrument of accession shall be deposited with the Depositary.

4. Upon ratifying, accepting, approving or acceding to this Convention, each State Party:
 - (a) shall notify the Depositary of the jurisdiction it has established under its national law in accordance with paragraph 2 of Article 8, and immediately notify the Depositary of any change; and
 - (b) may declare that it shall apply the provisions of subparagraph (d) of paragraph 4 of Article 1 in accordance with the principles of its criminal law concerning family exemptions from liability.

Article 22

1. This Convention shall enter into force on the first day of the second month following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession.
2. For each State ratifying, accepting, approving or acceding to this Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the first day of the second month following the date of the deposit by such State of its instrument of ratification, acceptance, approval or accession.
3. As soon as this Convention enters into force, it shall be registered with the United Nations by the Depositary.

Article 23

1. Any State Party may denounce this Convention by written notification to the Depositary.
2. Denunciation shall take effect one year following the date on which notification is received by the Depositary.

Article 24

As between the States Parties, this Convention shall prevail over the following instruments:

- (a) the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, Signed at Montreal on 23 September 1971; and
- (b) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, Done at Montreal on 23 September 1971, Signed at Montreal on 24 February 1988.

Article 25

The Depositary shall promptly inform all States Parties to this Convention and all signatory or acceding States to this Convention of the date of each signature, the date of deposit of each instrument of ratification, approval, acceptance or accession, the date of coming into force of this Convention, and other relevant information.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Convention.

DONE at Beijing on the tenth day of September of the year Two Thousand and Ten in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic, such authenticity to take effect upon verification by the Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the conformity of the texts with one another. This Convention shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Depositary to all Contracting States to this Convention.

(B) – Protocol Supplementary to the Convention for the Suppression of the Unlawful Seizure of Aircraft

THE STATES PARTIES TO THIS PROTOCOL, DEEPLY CONCERNED about the worldwide escalation of unlawful acts against civil aviation; RECOGNIZING that new types of threats against civil aviation require new concerted efforts and policies of cooperation on the part of States; and

BELIEVING that in order to better address these threats, it is necessary to adopt provisions supplementary to those of the Convention for the Suppression of Unlawful Seizure of Aircraft signed at The Hague on 16 December 1970, to suppress unlawful acts of seizure or exercise of control of aircraft and to improve its effectiveness;

HAVE AGREED AS FOLLOWS:

Article I

This Protocol supplements the *Convention for the Suppression of Unlawful Seizure of Aircraft*, signed at The Hague on 16 December 1970 (hereinafter referred to as “the Convention”).

Article II

Article 1 of the Convention shall be replaced by the following: “**Article 1**

1. Any person commits an offence if that person unlawfully and intentionally seizes or exercises control of an aircraft in service by force or threat thereof, or by coercion, or by any other form of intimidation, or by any technological means.
2. Any person also commits an offence if that person:
 - (a) makes a threat to commit the offence set forth in paragraph 1 of this Article; or
 - (b) unlawfully and intentionally causes any person to receive such a threat, under circumstances which indicate that the threat is credible.

3. Any person also commits an offence if that person:
 - (a) attempts to commit the offence set forth in paragraph 1 of this Article; or
 - (b) organizes or directs others to commit an offence set forth in paragraph 1, 2 or 3 (a) of this Article; or
 - (c) participates as an accomplice in an offence set forth in paragraph 1, 2 or 3 (a) of this Article; or
 - (d) unlawfully and intentionally assists another person to evade investigation, prosecution or punishment, knowing that the person has committed an act that constitutes an offence set forth in paragraph 1, 2, 3 (a), 3 (b) or 3 (c) of this Article, or that the person is wanted for criminal prosecution by law enforcement authorities for such an offence or has been sentenced for such an offence.
4. Each State Party shall also establish as offences, when committed intentionally, whether or not any of the offences set forth in paragraph 1 or 2 of this Article is actually committed or attempted, either or both of the following:
 - (a) ~~agreeing with one or more other persons to commit an~~ offence set forth in paragraph 1 or 2 of this Article and, where required by national law, involving an act undertaken by one of the participants in furtherance of the agreement; or
 - (b) contributing in any other way to the commission of one or more offences set forth in paragraph 1 or 2 of this Article by a group of persons acting with a common purpose, and such contribution shall either:
 - (i) be made with the aim of furthering the general criminal activity or purpose of the group, where such activity or purpose involves the commission of an offence set forth in paragraph 1 or 2 of this Article; or

- (ii) be made in the knowledge of the intention of the group to commit an offence set forth in paragraph 1 or 2 of this Article.”

Article III

Article 2 of the Convention shall be replaced by the following:

“Article 2

Each State Party undertakes to make the offences set forth in Article 1 punishable by severe penalties.”

Article IV

The following shall be added as Article 2 *bis* of the Convention: “**Article 2 bis**

1. Each State Party, in accordance with its national legal principles, may take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for management or control of that legal entity has, in that capacity, committed an offence set forth in Article 1. Such liability may be criminal, civil or administrative.
 2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.
-
3. If a State Party takes the necessary measures to make a legal entity liable in accordance with paragraph 1 of this Article, it shall endeavour to ensure that the applicable criminal, civil or administrative sanctions are effective, proportionate and dissuasive. Such sanctions may include monetary sanctions.”

Article V

1. Article 3, paragraph 1, of the Convention shall be replaced by the following: “**Article 3**
2. For the purposes of this Convention, an aircraft is considered to be in service from the beginning of the pre-flight preparation of the aircraft by ground personnel or by the crew for a specific flight until

twenty-four hours after any landing. In the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board.”

3. In Article 3, paragraph 3, of the Convention, “registration” shall be replaced by “registry”.
4. In Article 3, paragraph 4, of the Convention, “mentioned” shall be replaced by “set forth”.
5. Article 3, paragraph 5, of the Convention shall be replaced by the following:

“5. Notwithstanding paragraphs 3 and 4 of this Article, Articles 6, 7, 7 *bis*, 8, 8 *bis*, 8 *ter* and 10 shall apply whatever the place of take-off or the place of actual landing of the aircraft, if the offender or the alleged offender is found in the territory of a State other than the State of registry of that aircraft.”

Article VI

The following shall be added as Article 3 *bis* of the Convention: “**Article 3**
bis

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations, the Convention on International Civil Aviation and international humanitarian law.
2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law are not governed by this Convention, and the activities undertaken by military forces of a State in the exercise of their official duties, in as much as they are governed by other rules of international law, are not governed by this Convention.

3. The provisions of paragraph 2 of this Article shall not be interpreted as condoning or making lawful otherwise unlawful acts, or precluding prosecution under other laws.”

Article VII

Article 4 of the Convention shall be replaced by the following:

“Article 4

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in Article 1 and any other act of violence against passengers or crew committed by the alleged offender in connection with the offences, in the following cases:
 - (a) when the offence is committed in the territory of that State;
 - (b) when the offence is committed against or on board an aircraft registered in that State;
 - (c) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
 - (d) when the offence is committed against or on board an aircraft leased without crew to a lessee whose principal place of business or, if the lessee has no such place of business, whose permanent residence is in that State;
 - (e) when the offence is committed by a national of that State.
2. Each State Party may also establish its jurisdiction over any such offence in the following cases:
 - (a) when the offence is committed against a national of that State;
 - (b) when the offence is committed by a stateless person whose habitual residence is in the territory of that State.
3. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in Article 1 in the case where the alleged offender is present in its territory and it does not extradite that person pursuant to Article 8 to any of the States Parties that have established their jurisdiction in accordance with the applicable paragraphs of this Article with regard to those offences.

4. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.”

Article VIII

Article 5 of the Convention shall be replaced by the following:

“Article 5

The States Parties which establish joint air transport operating organisations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registry for the purpose of this Convention and shall give notice thereof to the Secretary General of the International Civil Aviation Organization who shall communicate the notice to all States Parties to this Convention.”

Article IX

Article 6, paragraph 4, of the Convention shall be replaced by the following:

“Article 6

4. ~~When a State Party, pursuant to this Article, has taken a person~~ into custody, it shall immediately notify the States Parties which have established jurisdiction under paragraph 1 of Article 4, and established jurisdiction and notified the Depositary under paragraph 2 of Article 4 and, if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant that person’s detention. The State Party which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States Parties and shall indicate whether it intends to exercise jurisdiction.”

Article X

The following shall be added as Article 7 *bis* of the Convention:

“Article 7 bis

Any person who is taken into custody, or regarding whom any other measures are taken or proceedings are being carried out pursuant to this Convention, shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international human rights law.”

Article XI

Article 8 of the Convention shall be replaced by the following:

“Article 8

1. The offences set forth in Article 1 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include the offences as extraditable offences in every extradition treaty to be concluded between them.
2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offences set forth in Article 1. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognise the offences set forth in Article 1 as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Each of the offences shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties required to establish their jurisdiction in accordance with subparagraphs (b), (c), (d) and (e) of paragraph 1 of Article 4 and who have established jurisdiction in accordance with paragraph 2 of Article 4.

5. The offences set forth in subparagraphs (a) and (b) of paragraph 4 of Article 1 shall, for the purpose of extradition between States Parties, be treated as equivalent.”

Article XII

The following shall be added as Article 8 *bis* of the Convention:

“Article 8 *bis*

None of the offences set forth in Article 1 shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.”

Article XIII

The following shall be added as Article 8 *ter* of the Convention:

“Article 8 *ter*

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in Article 1 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person’s race, religion, nationality, ethnic origin, political opinion or gender, or that compliance with the request would cause prejudice to that person’s position for any of these reasons.”

Article XIV

Article 9, paragraph 1, of the Convention shall be replaced by the following:

“Article 9

1. When any of the acts set forth in paragraph 1 of Article 1 has occurred or is about to occur, States Parties shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve the commander’s control of the aircraft.”

Article XV

Article 10, paragraph 1, of the Convention shall be replaced by the following:

“Article 10

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in Article 1 and other acts set forth in Article 4. The law of the State requested shall apply in all cases.”

Article XVI

The following shall be added as Article 10 *bis* of the Convention:

“Article 10 *bis*

~~Any State Party having reason to believe that one of the offences set forth in Article 1 will be committed shall, in accordance with its national law, furnish any relevant information in its possession to those States Parties which it believes would be the States set forth in paragraphs 1 and 2 of Article 4.”~~

Article XVII

1. All references in the Convention to “Contracting State” and “Contracting States” shall be replaced by “State Party” and “States Parties” respectively.
2. All references in the Convention to “him” and “his” shall be replaced by “that person” and “that person’s” respectively.

Article XVIII

The texts of the Convention in the Arabic and Chinese languages annexed to this Protocol shall, together with the texts of the Convention in the English, French, Russian and Spanish languages, constitute texts equally authentic in the six languages.

Article XIX

As between the States Parties to this Protocol, the Convention and this Protocol shall be read and interpreted together as one single instrument and shall be known as The Hague Convention as amended by the Beijing Protocol, 2010.

Article XX

This Protocol shall be open for signature in Beijing on 10 September 2010 by States participating in the Diplomatic Conference on Aviation Security held at Beijing from 30 August to 10 September 2010. After 27 September 2010, this Protocol shall be open to all States for signature at the Headquarters of the International Civil Aviation Organization in Montréal until it enters into force in accordance with Article XXIII.

Article XXI

1. This Protocol is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the International Civil Aviation Organisation, who is hereby designated as the Depositary.
2. Ratification, acceptance or approval of this Protocol by any State which is not a Party to the Convention shall have the effect of ratification, acceptance or approval of The Hague Convention as amended by the Beijing Protocol, 2010.
3. Any State which does not ratify, accept or approve this Protocol in accordance with paragraph 1 of this Article may accede to it at any time. The instruments of accession shall be deposited with the Depositary.

Article XXII

Upon ratifying, accepting, approving or acceding to this Protocol, each State Party:

- (a) shall notify the Depositary of the jurisdiction it has established under its national law in accordance with paragraph 2 of Article 4 of The Hague Convention as amended by the Beijing Protocol, 2010, and immediately notify the Depositary of any change; and
- (b) may declare that it shall apply the provisions of subparagraph (d) of paragraph 3 of Article 1 of The Hague Convention as amended by the Beijing Protocol, 2010 in accordance with the principles of its criminal law concerning family exemptions from liability.

Article XXIII

- 1. This Protocol shall enter into force on the first day of the second month following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Depositary.
- 2. For each State ratifying, accepting, approving or acceding to this Protocol ~~after the deposit of the twenty-second instrument of~~ ratification, acceptance, approval or accession, this Protocol shall enter into force on the first day of the second month following the date of the deposit by such State of its instrument of ratification, acceptance, approval or accession.
- 3. As soon as this Protocol enters into force, it shall be registered with the United Nations by the Depositary.

Article XXIV

- 1. Any State Party may denounce this Protocol by written notification to the Depositary.

2. Denunciation shall take effect one year following the date on which notification is received by the Depositary.

Article XXV

The Depositary shall promptly inform all States Parties to this Protocol and all signatory or acceding States to this Protocol of the date of each signature, the date of deposit of each instrument of ratification, acceptance, approval or accession, the date of coming into force of this Protocol, and other relevant information.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE at Beijing on the tenth day of September of the year Two Thousand and Ten in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic, such authenticity to take effect upon verification by the Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the conformity of the texts with one another. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Depositary to all Contracting States to this Protocol.

SEVENTH SCHEDULE

(section 36(7))

**CONVENTION ON DAMAGE CAUSED BY FOREIGN
AIRCRAFT TO THIRD PARTIES ON THE SURFACE**

THE STATES SIGNATORY to this Convention MOVED by a desire to ensure adequate compensation for persons who suffer damage caused on the surface by foreign aircraft, while limiting in a reasonable manner the extent of the liabilities incurred for such damage in order not to hinder the development of international civil air transport and also

CONVINCED of the need for unifying to the greatest extent possible, through an international convention, the rules applying in the various countries of the world to the liabilities incurred for such damage, HAVE

APPOINTED to such effect the undersigned Plenipotentiaries who, duly authorised,

HAVE AGREED AS FOLLOWS:

CHAPTER I

PRINCIPLES OF LIABILITY

Article 1

1. Any person who suffers damage on the surface shall, upon proof only that the damage was caused by an aircraft in flight or by any person or thing falling there from, be entitled to compensation as provided by this Convention. Nevertheless, there shall be no right to compensation if the damage is not a direct consequence of the incident giving rise thereto, or if the damage results from the mere fact of passage of the aircraft through the airspace in conformity with existing air traffic regulations.
2. For the purpose of this Convention, an aircraft is considered to be in flight from the moment when power is applied for the purpose of actual take-off until the moment when the landing run ends. In

the case of an aircraft lighter than air, the expression “in flight” relates to the period from the moment when it becomes detached from the surface until it becomes again attached thereto.

Article 2

1. The liability for compensation contemplated by Article 1 of this Convention shall attach to the operator of the aircraft.
2. (a) For the purposes of this Convention the term “operator” shall mean the person who was making use of the aircraft at the time the damage was caused, provided that if control of the navigation of the aircraft was retained by the person from whom the right to make use of the aircraft was derived, whether directly or indirectly, that person shall be considered the operator.

(b) A person shall be considered to be making use of an aircraft when he is using it personally or when his servants or agents are using the aircraft in the course of their employment, whether or not within the scope of their authority.
3. The registered owner of the aircraft shall be presumed to be the operator and shall be liable as such unless, in the proceedings for the determination of his liability, he proves that some other person was the operator and, in so far as legal procedures permit, takes appropriate measures to make that other person a party in the proceedings.

Article 3

If the person who was the operator at the time the damage was caused had not the exclusive right to use the aircraft for a period of more than fourteen days, dating from the moment when the right to use commenced, the person from whom such right was derived shall be liable jointly and severally with the operator, each of them being bound under the provisions and within the limits of liability of this Convention.

Article 4

If a person makes use of an aircraft without the consent of the person entitled to its navigational control, the latter, unless he proves that he has

exercised due care to prevent such use, shall be jointly and severally liable with the unlawful user for damage giving a right to compensation under Article 1, each of them being bound under the provisions and within the limits of liability of this Convention.

Article 5

Any person who would otherwise be liable under the provisions of this Convention shall not be liable if the damage is the direct consequence of armed conflict or civil disturbance, or if such person has been deprived of the use of the aircraft by act of public authority.

Article 6

1. Any person who would otherwise be liable under the provisions of this Convention shall not be liable for damage if he proves that the damage was caused solely through the negligence or other wrongful act or omission of the person who suffers the damage or of the latter's servants or agents. If the person liable proves that the damage was contributed to by the negligence or other wrongful act or omission of the person who suffers the damage, or of his servants or agents, the compensation shall be reduced to the extent to which such negligence or wrongful act or omission contributed to the damage. Nevertheless, there shall be no such exoneration or reduction if, in the case of the negligence or other wrongful act or omission of a servant or agent, the person who suffers the damage proves that his servant or agent was acting outside the scope of his authority.
2. When an action is brought by one person to recover damages arising from the death or injury of another person, the negligence or other wrongful act or omission of such other person, or of his servants or agents, shall also have the effect provided in the preceding paragraph.

Article 7

When two or more aircraft have collided or interfered with each other in flight and damage for which a right to compensation as contemplated in Article 1 results, or when two or more aircraft have jointly caused such

damage, each of the aircraft concerned shall be considered to have caused the damage and the operator of each aircraft shall be liable, each of them being bound under the provisions and within the limits of liability of this Convention.

Article 8

The persons referred to in paragraph 3 of Article 2 and in Articles 3 and 4 shall be entitled to all defences which are available to an operator under the provisions of this Convention.

Article 9

Neither the operator, the owner, any person liable under Article 3 or Article 4, nor their respective servants or agents, shall be liable for damage on the surface caused by an aircraft in flight or any person or thing falling there from otherwise than as expressly provided in this Convention. This rule shall not apply to any such person who is guilty of a deliberate act or omission done with intent to cause damage.

Article 10

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

CHAPTER II

EXTENT OF LIABILITY

Article 11

1. Subject to the provisions of Article 12, the liability for damage giving a right to compensation under Article 1, for each aircraft and incident, in respect of all persons liable under this Convention, shall not exceed:
 - (a) 500 000 francs for aircraft weighing 1000 kilogrammes or less;
 - (b) 500 000 francs plus 400 francs per kilogramme over 1000 kilogrammes for aircraft weighing more than 1000 but not exceeding 6000 kilogrammes;

- (c) 2 500 000 francs plus 250 francs per kilogramme over 6000 kilogrammes for aircraft weighing more than 6000 but not exceeding 20 000 kilogrammes;
 - (d) 6 000 000 francs plus 150 francs per kilogramme over 20 000 kilogrammes for aircraft weighing more than 20 000 but not exceeding 50 000 kilogrammes;
 - (e) 10 500 000 francs plus 100 francs per kilogramme over 50 000 kilogrammes for aircraft weighing more than 50 000 kilogrammes.
2. The liability in respect of loss of life or personal injury shall not exceed 500 000 francs per person killed or injured.
 3. “Weight” means the maximum weight of the aircraft authorised by the certificate of airworthiness for take-off, excluding the effect of lifting gas when used.
 4. The sums mentioned in francs in this Article refer to a currency unit consisting of 65 ½ milligrammes of gold of millesimal fineness 900. These sums may be converted into national currencies in round figures. Conversion of the sums into national currencies other than gold shall, in case of judicial proceedings, be made according to the gold value of such currencies at the date of the judgment, or, in cases covered by Article 14, at the date of the allocation.

Article 12

1. If the person who suffers damage proves that it was caused by a deliberate act or omission of the operator, his servants or agents, done with intent to cause damage, the liability of the operator shall be unlimited; provided that in the case of such act or omission of such servant or agent, it is also proved that he was acting in the course of his employment and within the scope of his authority.
2. If a person wrongfully takes and makes use of an aircraft without the consent of the person entitled to use it, his liability shall be unlimited.

Article 13

1. Whenever, under the provisions of Article 3 or Article 4, two or more persons are liable for damage, or a registered owner who was not the operator is made liable as such as provided in paragraph 3 of Article 2, the persons who suffer damage shall not be entitled to total compensation greater than the highest indemnity which may be awarded under the provisions of this Convention against any one of the persons liable.
2. When the provisions of Article 7 are applicable, the person who suffers the damage shall be entitled to be compensated up to the aggregate of the limits applicable with respect to each of the aircraft involved, but no operator shall be liable for a sum in excess of the limit applicable to his aircraft unless his liability is unlimited under the terms of Article 12.

Article 14

If the total amount of the claims established exceeds the limit of liability applicable under the provisions of this Convention, the following rules shall apply, taking into account the provisions of paragraph 2 of Article 11:

- (a) If the claims are exclusively in respect of loss of life or personal injury or exclusively in respect of damage to property, such claims shall be reduced in proportion to their respective amounts.
- (b) If the claims are both in respect of loss of life or personal injury and in respect of damage to property, one half of the total sum distributable shall be appropriated preferentially to meet claims in respect of loss of life and personal injury and, if insufficient, shall be distributed proportionately between the claims concerned. The remainder of the total sum distributable shall be distributed proportionately among the claims in respect of damage to property and the portion not already covered of the claims in respect of loss of life and personal injury.

CHAPTER III
SECURITY FOR OPERATOR'S LIABILITY

Article 15

1. Any Contracting State may require that the operator of an aircraft registered in another Contracting State shall be insured in respect of his liability for damage sustained in its territory for which a right to compensation exists under Article 1 by means of insurance up to the limits applicable according to the provisions of Article 11.
2.
 - (a) The insurance shall be accepted as satisfactory if it conforms to the provisions of this Convention and has been effected by an insurer authorised to effect such insurance under the laws of the State where the aircraft is registered or of the State where the insurer has his residence or principal place of business, and whose financial responsibility has been verified by either of those States.
 - (b) If insurance has been required by any State under paragraph 1 of this Article, and a final judgment in that State is not satisfied by payment in the currency of that State, any Contracting State may refuse to accept the insurer as financially responsible until such payment, if demanded, has been made.
3. Notwithstanding the last preceding paragraph the State overflown may refuse to accept as satisfactory insurance effected by an insurer who is not authorised for that purpose in a contracting State.
4. Instead of insurance, any of the following securities shall be deemed satisfactory if the security conforms to Article 17:
 - (a) a cash deposit in a depository maintained by the Contracting State where the aircraft is registered or with a bank authorised to act as a depository by that State;
 - (b) a guarantee given by a bank authorised to do so by the Contracting State where the aircraft is registered, and whose financial responsibility has been verified by that State;

- (c) a guarantee given by the contracting State where the aircraft is registered, if that State undertakes that it will not claim immunity from suit in respect of that guarantee.
 - 5. Subject to paragraph 6 of this Article, the State overflown may also require that the aircraft shall carry a certificate issued by the insurer certifying that insurance has been effected in accordance with the provisions of this Convention, and specifying the person or persons whose liability is secured thereby, together with a certificate or endorsement issued by the appropriate authority in the State where the aircraft is registered or in the State where the insurer has his residence or principal place of business certifying the financial responsibility of the insurer. If other security is furnished in accordance with the provisions of paragraph 4 of this Article, a certificate to that effect shall be issued by the appropriate authority in the State where the aircraft is registered.
 - 6. The certificate referred to in paragraph 5 of this Article need not be carried in the aircraft if a certified copy has been filed with the appropriate authority designated by the State overflown or, if the International Civil Aviation Organisation agrees, with that Organisation, which shall furnish a copy of the certificate to each contracting State.
-
- 7.
 - (a) Where the State overflown has reasonable grounds for doubting the financial responsibility of the insurer, or of the bank which issues a guarantee under paragraph 4 of this Article, that State may request additional evidence of financial responsibility, and if any question arises as to the adequacy of that evidence the dispute affecting the States concerned shall, at the request of one of those States, be submitted to an arbitral tribunal which shall be either the Council of the International Civil Aviation Organisation or a person or body mutually agreed by the parties.
 - (b) Until this tribunal has given its decision the insurance or guarantee shall be considered provisionally valid by the State overflown.

8. Any requirements imposed in accordance with this Article shall be notified to the Secretary General of the International Civil Aviation Organisation who shall inform each contracting State thereof.
9. For the purpose of this Article, the term “insurer” includes a group of insurers, and for the purpose of paragraph 5 of this Article, the phrase “appropriate authority in a State” includes the appropriate authority in the highest political subdivision thereof which regulates the conduct of business by the insurer.

Article 16

1. The insurer or other person providing security required under Article 15 for the liability of the operator may, in addition to the defences available to the operator, and the defence of forgery, set up only the following defences against claims based on the application of this Convention:
 - (a) that the damage occurred after the security ceased to be effective. However, if the security expires during a flight, it shall be continued in force until the next landing specified in the flight plan, but no longer than twenty-four hours; and if the security ceases to be effective for any reason other than the expiration of its term, or a change of operator, it shall be continued until fifteen days after notification to the appropriate authority of the State which certifies the financial responsibility of the insurer or the guarantor that the security has ceased to be effective, or until effective withdrawal of the certificate of the insurer or the certificate of guarantee if such a certificate has been required under paragraph 5 of Article 15, whichever is the earlier;
 - (b) that the damage occurred outside the territorial limits provided for by the security, unless flight outside of such limits was caused by force majeure, assistance justified by the circumstances, or an error in piloting, operation or navigation.

2. The State which has issued or endorsed a certificate pursuant to paragraph 5 of Article 15 shall notify the termination or cessation, otherwise than by the expiration of its term, of the insurance or other security to the interested contracting States as soon as possible.
3. Where a certificate of insurance or other security is required under paragraph 5 of Article 15 and the operator is changed during the period of the validity of the security, the security shall apply to the liability under this Convention of the new operator, unless he is an unlawful user, but not beyond fifteen days from the time when the insurer or guarantor notifies the appropriate authority of the State where the certificate was issued that the security has become ineffective or until the effective withdrawal of the certificate of the insurer if such a certificate has been required under paragraph 5 of Article 15, whichever is the shorter period.
4. The continuation in force of the security under the provisions of paragraph 1 of this Article shall apply only for the benefit of the person suffering damage.
5. Without prejudice to any right of direct action which he may have under the law governing the contract of insurance or guarantee, the person suffering damage may bring a direct action against the insurer or guarantor only in the following cases:
 - (a) where the security is continued in force under the provisions of paragraph 1(a) and (b) of this Article;
 - (b) the bankruptcy of the operator.
6. Excepting the defences specified in paragraph 1 of this Article, the insurer or other person providing security may not, with respect to direct actions brought by the person suffering damage based upon application of this Convention, avail himself of any grounds of nullity or any right of retroactive cancellation.
7. The provisions of this Article shall not prejudice the question whether the insurer or guarantor has a right of recourse against any other person.

Article 17

1. If security is furnished in accordance with paragraph 4 of Article 15, it shall be specifically and preferentially assigned to payment of claims under the provisions of this Convention.
2. The security shall be deemed sufficient if, in the case of an operator of one aircraft, it is for an amount equal to the limit applicable according to the provisions of Article 11, and in the case of an operator of several aircraft, if it is for an amount not less than the aggregate of the limits of liability applicable to the two aircraft subject to the highest limits.
3. As soon as notice of a claim has been given to the operator, the amount of the security shall be increased up to a total sum equivalent to the aggregate of:
 - (a) the amount of the security then required by paragraph 2 of this Article and
 - (b) the amount of the claim not exceeding the applicable limit of liability. This increased security shall be maintained until every claim has been disposed of.

Article 18

Any sums due to an operator from an insurer shall be exempt from seizure and execution by creditors of the operator until claims of third parties under this Convention have been satisfied.

CHAPTER IV**RULES OF PROCEDURE AND LIMITATION OF ACTIONS****Article 19**

If a claimant has not brought an action to enforce his claim or if notification of such claim has not been given to the operator within a period of six months from the date of the incident which gave rise to the damage, the claimant shall only be entitled to compensation out of the amount for which the operator remains liable after all claims made within that period have been met in full.

Article 20

1. Actions under the provisions of this Convention may be brought only before the courts of the Contracting State where the damage occurred. Nevertheless, by agreement between any one or more claimants and any one or more defendants, such claimants may take action before the courts of any other Contracting State, but no such proceedings shall have the effect of prejudicing in any way the rights of persons who bring actions in the State where the damage occurred. The parties may also agree to submit disputes to arbitration in any Contracting State.
2. Each Contracting State shall take all necessary measures to ensure that the defendant and all other parties interested are notified of any proceedings concerning them and have a fair and adequate opportunity to defend their interests.
3. Each Contracting State shall so far as possible ensure that all actions arising from a single incident and brought in accordance with paragraph 1 of this Article are consolidated for disposal in a single proceeding before the same court.
4. Where any final judgment, including a judgment by default, is pronounced by a court competent in conformity with this Convention, on which execution can be issued according to the procedural law of that court, the judgment shall be enforceable upon compliance with the formalities prescribed by the laws of the Contracting State, or of any territory, State or province thereof, where execution is applied for:
 - (a) in the Contracting State where the judgment debtor has his residence or principal place of business or,
 - (b) if the assets available in that State and in the State where the judgment was pronounced are insufficient to satisfy the judgment, in any other Contracting State where the judgment debtor has assets.

5. Notwithstanding the provisions of paragraph 4 of this Article, the court to which application is made for execution may refuse to issue execution if it is proved that any of the following circumstances exist:
- (a) the judgment was given by default and the defendant did not acquire knowledge of the proceedings in sufficient time to act upon it;
 - (b) the defendant was not given a fair and adequate opportunity to defend his interests;
 - (c) the judgment is in respect of a cause of action which had already, as between the same parties, formed the subject of a judgment or an arbitral award which, under the law of the State where execution is sought, is recognized as final and conclusive;
 - (d) the judgment has been obtained by fraud of any of the parties;
 - (e) the right to enforce the judgment is not vested in the person by whom the application for execution is made.
6. The merits of the case may not be reopened in proceedings for execution under paragraph 4 of this Article.
- ~~7. The court to which application for execution is made may also refuse to issue execution if the judgment concerned is contrary to the public policy of the State in which execution is requested.~~
8. If, in proceedings brought according to paragraph 4 of this Article, execution of any judgment is refused on any of the grounds referred to in subparagraphs (a), (b) or (d) of paragraph 5 or paragraph 7 of this Article, the claimant shall be entitled to bring a new action before the courts of the State where execution has been refused. The judgment rendered in such new action may not result in the total compensation awarded exceeding the limits applicable under the provisions of this Convention. In such new action the previous judgment shall be a defence only to the extent to which it has been satisfied. The previous judgment shall cease to be enforceable as soon as the new action has been started. The right to bring a new

action under this paragraph shall, notwithstanding the provisions of Article 21, be subject to a period of limitation of one year from the date on which the claimant has received notification of the refusal to execute the judgment.

9. Notwithstanding the provisions of paragraph 4 of this Article, the court to which application for execution is made shall refuse execution of any judgment rendered by a court of a State other than that in which the damage occurred until all the judgments rendered in that State have been satisfied.

The court applied to shall also refuse to issue execution until final judgment has been given on all actions filed in the State where the damage occurred by those persons who have complied with the time limit referred to in Article 19, if the judgment debtor proves that the total amount of compensation which might be awarded by such judgments might exceed the applicable limit of liability under the provisions of this Convention. Similarly such court shall not grant execution when, in the case of actions brought in the State where the damage occurred by those persons who have complied with the time limit referred to in Article 19, the aggregate of the judgments exceeds the applicable limit of liability, until such judgments have been reduced in accordance with Article 14.

10. Where a judgment is rendered enforceable under this Article, payment of costs recoverable under the judgment shall also be enforceable. Nevertheless the court applied to for execution may, on the application of the judgment debtor, limit the amount of such costs to a sum equal to ten per centum of the amount for which the judgment is rendered enforceable. The limits of liability prescribed by this Convention shall be exclusive of costs.
11. Interest not exceeding four per centum per annum may be allowed on the judgment debt from the date of the judgment in respect of which execution is granted.
12. An application for execution of a judgment to which paragraph 4 of this Article applies must be made within five years from the date when such judgment became final.

Article 21

1. Actions under this Convention shall be subject to a period of limitation of two years from the date of the incident which caused the damage.
2. The grounds for suspension or interruption of the period referred to in paragraph 1 of this Article shall be determined by the law of the court trying the action; but in any case the right to institute an action shall be extinguished on the expiration of three years from the date of the incident which caused the damage.

Article 22

In the event of the death of the person liable, an action in respect of liability under the provisions of this Convention shall lie against those legally responsible for his obligations.

CHAPTER V
APPLICATION OF THE CONVENTION AND GENERAL
PROVISIONS

Article 23

1. This Convention applies to damage contemplated in Article 1 caused in the territory of a Contracting State by an aircraft registered in the territory of another Contracting State.
2. For the purpose of this Convention a ship or aircraft on the high seas shall be regarded as part of the territory of the State in which it is registered.

Article 24

This Convention shall not apply to damage caused to an aircraft in flight, or to persons or goods on board such aircraft.

Article 25

This Convention shall not apply to damage on the surface if liability for such damage is regulated either by a contract between the person who

suffers such damage and the operator or the person entitled to use the aircraft at the time the damage occurred, or by the law relating to workmen's compensation applicable to a contract of employment between such persons.

Article 26

This Convention shall not apply to damage caused by military, customs or police aircraft.

Article 27

Contracting States will, as far as possible, facilitate payment of compensation under the provisions of this Convention in the currency of the State where the damage occurred.

Article 28

If legislative measures are necessary in any Contracting State to give effect to this Convention, the Secretary General of the International Civil Aviation Organisation shall be informed forthwith of the measures so taken.

Article 29

As between Contracting States which have also ratified the International Convention for the Unification of Certain Rules relating to Damage caused by Aircraft to Third Parties on the Surface opened for signature at Rome on the 29 May 1933, the present Convention upon its entry into force shall supersede the said Convention of Rome.

Article 30

For the purposes of this Convention:

“Person” means any natural or legal person, including a State;

“Contracting State” means any State which has ratified or adhered to this Convention and whose denunciation thereof has not become effective; and

“Territory of a State” means the metropolitan territory of a State and all territories for the foreign relations of which that State is responsible, subject to the provisions of Article

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CHAPTER VI FINAL PROVISIONS

Article 31

This Convention shall remain open for signature on behalf of any State until it comes into force in accordance with the provisions of Article 33.

Article 32

1. This Convention shall be subject to ratification by the signatory States.
2. The instruments of ratification shall be deposited with the International Civil Aviation Organisation.

Article 33

1. As soon as five of the signatory States have deposited their instruments of ratification of this Convention, it shall come into force between them on the ninetieth day after the date of the deposit of the fifth instrument of ratification. It shall come into force, for each State which deposits its instrument of ratification after that date, on the ninetieth day after the deposit of its instrument of ratification.
2. As soon as this Convention comes into force, it shall be registered with the United Nations by the Secretary General of the International Civil Aviation Organisation.

Article 34

1. This Convention shall, after it has come into force, be open for adherence by any non-signatory State.
2. The adherence of a State shall be effected by the deposit of an instrument of adherence with the International Civil Aviation Organisation and shall take effect as from the ninetieth day after the date of the deposit.

Article 35

1. Any Contracting State may denounce this Convention by notification of denunciation to the International Civil Aviation Organisation.
2. Denunciation shall take effect six months after the date of receipt by the International Civil Aviation Organisation of the notification of denunciation; nevertheless, in respect of damage contemplated in Article 1 arising from an incident which occurred before the expiration of the six months period, the Convention shall continue to apply as if the denunciation had not been made.

Article 36

1. This Convention shall apply to all territories for the foreign relations of which a Contracting State is responsible, with the exception of territories in respect of which a declaration has been made in accordance with paragraph 2 of this Article or paragraph 3 of Article 37.
2. Any State may at the time of deposit of its instrument of ratification or adherence, declare that its acceptance of this Convention does not apply to any one or more of the territories for the foreign relations of which such State is responsible.
3. Any Contracting State may subsequently, by notification to the International Civil Aviation Organization, extend the application of this Convention to any or all of the territories regarding which it has made a declaration in accordance with paragraph 2 of this Article or paragraph 3 of Article 37. The notification shall take effect as from the ninetieth day after its receipt by the Organisation.
4. Any Contracting State may denounce this Convention, in accordance with the provisions of Article 35, separately for any or all of the territories for the foreign relations of which such State is responsible.

Article 37

1. When the whole or part of the territory of a Contracting State is transferred to a non-contracting State, this Convention shall cease to apply to the territory so transferred, as from the date of the transfer.
 2. When part of the territory of a Contracting State becomes an independent State responsible for its own foreign relations, this Convention shall cease to apply to the territory which becomes an independent State, as from the date on which it becomes independent.
 3. When the whole or part of the territory of another State is transferred to a Contracting State, the Convention shall apply to the territory so transferred as from the date of the transfer; provided that, if the territory transferred does not become part of the metropolitan territory of the Contracting State concerned, that Contracting State may, before or at the time of the transfer, declare by notification to the International Civil Aviation Organisation that the Convention shall not apply to the territory transferred unless a notification is made under paragraph 3 of Article 36.
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EIGHTH SCHEDULE

(section 36(8))

**2009 CONVENTION ON COMPENSATION FOR DAMAGE TO
THIRD PARTIES, RESULTING FROM ACTS OF UNLAWFUL
INTERFERENCE INVOLVING AIRCRAFT**

Chapter I — Principles

Article 1 — Definitions

Article 2 — Scope

Chapter II — Liability of the operator and related issues

Article 3 — Liability of the operator

Article 4 — Limit of the operator's liability

Article 5 — Events involving two or more operators

Article 6 — Advance payments

Article 7 — Insurance

Chapter III — The International Civil Aviation Compensation Fund

Article 8 — The constitution and objectives of the International Civil
Aviation Compensation Fund

Article 9 — The Conference of Parties

Article 10 — The meetings of the Conference of Parties

Article 11 — The Secretariat and the Director

Article 12 — Contributions to the International Fund

Article 13 — Basis for fixing the contributions

Article 14 — Period and rate of contributions

Article 15 — Collection of the contributions

Article 16 — Duties of States Parties

Article 17 — The funds of the International Fund

Chapter IV — Compensation from the International Fund

Article 18 — Compensation

Article 19 — Advance payments and other measures

Chapter V — Special provisions on compensation and recourse

Article 20 — Exoneration

Article 21 — Court costs and other expenses

Article 22 — Priority of compensation

Article 23 — Additional compensation

Article 24 — Right of recourse of the operator

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Article 26 — Restrictions on rights of recourse

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Chapter VI — Assistance in case of events in States non-Party

Article 28 — Assistance in case of events in States non-Party

Chapter VII — Exercise of remedies and related provisions

Article 29 — Exclusive remedy

Article 30 — Conversion of Special Drawing Rights

Article 31 — Review of limits

Article 32 — Forum

Article 33 — Intervention by the International Fund

Article 34 — Recognition and enforcement of judgements

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Article 36 — Period of limitation

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Chapter VIII — Final clauses

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Article 39 – Regional Economic Integration Organizations

Article 40 — Entry into force

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Article 44 — Relationship to other treaties

Article 45 — States with more than one system of law

Article 46 — Reservations and declarations

Article 47 — Functions of the Depositary

THE STATES PARTIES TO THIS CONVENTION,

RECOGNIZING the serious consequences of acts of unlawful interference with aircraft which cause damage to third parties and to property;

RECOGNIZING that there are currently no harmonized rules relating to such consequences;

RECOGNIZING the importance of ensuring protection of the interests of third-party victims and the need for equitable compensation, as well as the need to protect the aviation industry from the consequences of damage caused by unlawful interference with aircraft;

CONSIDERING the need for a coordinated and concerted approach to providing compensation to third-party victims, based on cooperation between all affected parties;

REAFFIRMING the desirability of the orderly development of international air transport operations and the smooth flow of passengers, baggage and cargo in accordance with the principles and objectives of the Convention on International Civil Aviation, done at Chicago on 7 December 1944; and

CONVINCED that collective State action for harmonization and codification of certain rules governing compensation for the consequences of an event of unlawful interference with aircraft in flight through a new Convention is the most desirable and effective means of achieving an equitable balance of interests;

HAVE AGREED AS FOLLOWS:

Chapter I — Principles

Article 1 — Definitions

For the purposes of this Convention:

- (a) an “act of unlawful interference” means an act which is defined as an offence in the Convention for the Suppression of Unlawful Seizure of Aircraft, Signed at The Hague on 16 December 1970, or the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, Signed at Montréal on 23 September 1971, and any amendment in force at the time of the event;
- (b) an “event” occurs when damage results from an act of unlawful interference involving an aircraft in flight;
- (c) an aircraft is considered to be “in flight” at any time from the moment when all its external doors are closed following embarkation or loading until the moment when any such door is opened for disembarkation or unloading;
- (d) “international flight” means any flight whose place of departure and whose intended destination are situated within the territories of two States, whether or not there is a break in the flight, or within the territory of one State if

there is an intended stopping place in the territory of another State;

- (e) “maximum mass” means the maximum certificated take-off mass of the aircraft, excluding the effect of lifting gas when used;
- (f) “operator” means the person who makes use of the aircraft, provided that if control of the navigation of the aircraft is retained by the person from whom the right to make use of the aircraft is derived, whether directly or indirectly, that person shall be considered the operator. A person shall be considered to be making use of an aircraft when he or she is using it personally or when his or her servants or agents are using the aircraft in the course of their employment, whether or not within the scope of their authority. The operator shall not lose its status as operator by virtue of the fact that another person commits an act of unlawful interference;
- (g) “person” means any natural or legal person, including a State;
- (h) “senior management” means members of an operator’s supervisory board, members of its board of directors, or other senior officers of the operator who have the authority to make and have significant roles in making binding decisions about how the whole of or a substantial part of the operator’s activities are to be managed or organised;
- (i) “State Party” means a State for which this Convention is in force; and
- (j) “third party” means a person other than the operator, passenger or consignor or consignee of cargo.

Article 2 - Scope

1. This Convention applies to damage to third parties which occurs in the territory of a State Party caused by an aircraft in flight on an international flight, as a result of an act of unlawful interference.

This Convention shall also apply to such damage that occurs in a State non-Party as provided for in Article 28.

2. If a State Party so declares to the Depositary, this Convention shall also apply to damage to third parties that occurs in the territory of that State Party which is caused by an aircraft in flight other than on an international flight, as a result of an act of unlawful interference.
3. For the purposes of this Convention:
 - (a) damage to a ship in or an aircraft above the High Seas or the Exclusive Economic Zone shall be regarded as damage occurring in the territory of the State in which it is registered; however, if the operator of the aircraft has its principal place of business in the territory of a State other than the State of Registry, the damage to the aircraft shall be regarded as having occurred in the territory of the State in which it has its principal place of business; and
 - (b) damage to a drilling platform or other installation permanently fixed to the soil in the Exclusive Economic Zone or the Continental Shelf shall be regarded as having occurred in the territory of the State Party which has ~~jurisdiction over such platform or installation in~~ accordance with international law, including the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982.
4. This Convention shall not apply to damage caused by State aircraft. Aircraft used in military, customs and police services shall be deemed to be State aircraft.

Chapter II — Liability of the operator and related issues

Article 3 - Liability of the operator

1. The operator shall be liable to compensate for damage within the scope of this Convention upon condition only that the damage was caused by an aircraft in flight.
2. There shall be no right to compensation under this Convention if the damage is not a direct consequence of the event giving rise thereto.
3. Damages due to death, bodily injury and mental injury shall be compensable. Damages due to mental injury shall be compensable only if caused by a recognizable psychiatric illness resulting either from bodily injury or from direct exposure to the likelihood of imminent death or bodily injury.
4. Damage to property shall be compensable.
5. Environmental damage shall be compensable, in so far as such compensation is provided for under the law of the State in the territory of which the damage occurred.
6. No liability shall arise under this Convention for damage caused by a nuclear incident as defined in the Paris Convention on Third Party Liability in the Field of Nuclear Energy (29 July 1960) or for nuclear damage as defined in the Vienna Convention on Civil Liability for Nuclear Damage (21 May 1963), and any amendment or supplements to these Conventions in force at the time of the event.
7. Punitive, exemplary or any other non-compensatory damages shall not be recoverable.

Article 4 - Limit of the operator's liability

1. The liability of the operator arising under Article 3 shall not exceed for an event the following limit based on the mass of the aircraft involved:
 - (a) 750 000 Special Drawing Rights for aircraft having a maximum mass of 500 kilogrammes or less;
 - (b) 1 500 000 Special Drawing Rights for aircraft having a maximum mass of more than 500 kilogrammes but not exceeding 1 000 kilogrammes;
 - (c) 3 000 000 Special Drawing Rights for aircraft having a maximum mass of more than 1 000 kilogrammes but not exceeding 2 700 kilogrammes;
 - (d) 7 000 000 Special Drawing Rights for aircraft having a maximum mass of more than 2 700 kilogrammes but not exceeding 6 000 kilogrammes;
 - (e) 18 000 000 Special Drawing Rights for aircraft having a maximum mass of more than 6 000 kilogrammes but not exceeding 12 000 kilogrammes;
 - ~~(f) 80 000 000 Special Drawing Rights for aircraft having a maximum mass of more than 12 000 kilogrammes but not exceeding 25 000 kilogrammes;~~
 - (g) 150 000 000 Special Drawing Rights for aircraft having a maximum mass of more than 25 000 kilogrammes but not exceeding 50 000 kilogrammes;
 - (h) 300 000 000 Special Drawing Rights for aircraft having a maximum mass of more than 50 000 kilogrammes but not exceeding 200 000 kilogrammes;
 - (i) 500 000 000 Special Drawing Rights for aircraft having a maximum mass of more than 200 000 kilogrammes but not exceeding 500 000 kilogrammes;

(j) 700 000 000 Special Drawing Rights for aircraft having a maximum mass of more than 500 000 kilogrammes.

2. If an event involves two or more aircraft operated by the same operator, the limit of liability in respect of the aircraft with the highest maximum mass shall apply.

Article 5 - Events involving two or more operators

1. Where two or more aircraft have been involved in an event causing damage to which this Convention applies, the operators of those aircraft are jointly and severally liable for any damage suffered by a third party.
2. If two or more operators are so liable, the recourse between them shall depend on their respective limits of liability and their contribution to the damage.
3. No operator shall be liable for a sum in excess of the limit, if any, applicable to its liability.

Article 6 - Advance payments

If required by the law of the State where the damage occurred, the operator shall make advance payments without delay to natural persons who may be entitled to claim compensation under this Convention, in order to meet their immediate economic needs. Such advance payments shall not constitute a recognition of liability and may be offset against any amount subsequently payable as damages by the operator.

Article 7 - Insurance

1. Having regard to Article 4, States Parties shall require their operators to maintain adequate insurance or guarantee covering their liability under this Convention. If such insurance or guarantee is not available to an operator on a per event basis, the operator may satisfy this obligation by insuring on an aggregate basis. States Parties shall not require their operators to maintain such insurance or guarantee

to the extent that they are covered by a decision made pursuant to Article 11, paragraph 1(e) or Article 18, paragraph 3.

2. An operator may be required by the State Party in or into which it operates to furnish evidence that it maintains adequate insurance or guarantee. In doing so, the State Party shall apply the same criteria to operators of other States Parties as it applies to its own operators. Proof that an operator is covered by a decision made pursuant to Article 11, paragraph 1(e) or Article 18, paragraph 3, shall be sufficient evidence for the purpose of this paragraph.

Chapter III — The International Civil Aviation Compensation Fund

Article 8 - The constitution and objectives of the International Civil Aviation Compensation Fund

1. An organisation named the International Civil Aviation Compensation Fund, hereinafter referred to as “the International Fund”, is established by this Convention. The International Fund shall be made up of a Conference of Parties, consisting of the States Parties, and a Secretariat headed by a Director.
2. The International Fund shall have the following purposes:
 - (a) to provide compensation for damage according to Article 18, paragraph 1, pay damages according to Article 18, paragraph 3, and provide financial support under Article 28;
 - (b) to decide whether to provide supplementary compensation to passengers on board an aircraft involved in an event, according to Article 9, paragraph (j);
 - (c) to make advance payments under Article 19, paragraph 1, and to take reasonable measures after an event to minimize or mitigate damage caused by an event, according to Article 19, paragraph 2; and
 - (d) to perform other functions compatible with these purposes.
3. The International Fund shall have its seat at the same place as the International Civil Aviation Organization.

4. The International Fund shall have international legal personality.
5. In each State Party, the International Fund shall be recognized as a legal person capable under the laws of that State of assuming rights and obligations, entering into contracts, acquiring and disposing of movable and immovable property and of being a party in legal proceedings before the courts of that State. Each State Party shall recognize the Director of the International Fund as the legal representative of the International Fund.
6. The International Fund shall enjoy tax exemption and such other privileges as are agreed with the host State. Contributions to the International Fund and its funds, and any proceeds from them shall be exempted from tax in all States Parties.
7. The International Fund shall be immune from legal process, except in respect of actions relating to credits obtained in accordance with Article 17 or to compensation payable in accordance with Article 18. The Director of the International Fund shall be immune from legal process in relation to acts performed by him or her in his or her official capacity. The immunity of the Director may be waived by the Conference of Parties. The other personnel of the International Fund shall be immune from legal process in relation to acts performed by them in their official capacity. The immunity of the other personnel may be waived by the Director.
8. Neither a State Party nor the International Civil Aviation Organization shall be liable for acts, omissions or obligations of the International Fund.

Article 9 - The Conference of Parties

The Conference of Parties shall:

- (a) determine its own rules of procedure and, at each meeting, elect its officers;
- (b) establish the Regulations of the International Fund and the Guidelines for Compensation;

- (c) appoint the Director and determine the terms of his or her employment and, to the extent this is not delegated to the Director, the terms of employment of the other employees of the International Fund;
- (d) delegate to the Director, in addition to powers given in Article 11, such powers and authority as may be necessary or desirable for the discharge of the duties of the International Fund and revoke or modify such delegations of powers and authority at any time;
- (e) decide the period for, and the amount of, initial contributions and fix the contributions to be made to the International Fund for each year until the next meeting of the Conference of Parties;
- (f) in the case where the aggregate limit on contributions under Article 14, paragraph 3, has been applied, determine the global amount to be disbursed to the victims of all events occurring during the time period with regard to which Article 14, paragraph 3, was applied;
- (g) appoint the auditors;
- (h) vote budgets and determine the financial arrangements of the International Fund including the Guidelines on Investment, review expenditures, approve the accounts of the International Fund, and consider the reports of the auditors and the comments of the Director thereon;
- (i) examine and take appropriate action on the reports of the Director, including reports on claims for compensation, and decide on any matter referred to it by the Director;
- (j) decide whether and in what circumstances supplementary compensation may be payable by the International Fund to passengers on board an aircraft involved in an event in circumstances where the damages recovered by passengers according to applicable law did not result in the recovery of compensation commensurate with that available to third parties under this Convention. In exercising this discretion,

the Conference of Parties shall seek to ensure that passengers and third parties are treated equally;

- (k) establish the Guidelines for the application of Article 28, decide whether to apply Article 28 and set the maximum amount of such assistance;
- (l) determine which States non-Party and which intergovernmental and international non-governmental organisations shall be admitted to take part, without voting rights, in meetings of the Conference of Parties and subsidiary bodies;
- (m) establish any body necessary to assist it in its functions, including, if appropriate, an Executive Committee consisting of representatives of States Parties, and define the powers of such body;
- (n) decide whether to obtain credits and grant security for credits obtained pursuant to Article 17, paragraph 4;
- (o) make such determinations as it sees fit under Article 18, paragraph 3;
- (p) enter into arrangements on behalf of the International Fund with the International Civil Aviation Organisation;
- (q) request the International Civil Aviation Organisation to ~~assume an assistance, guidance and supervisory role with~~ respect to the International Fund as far as the principles and objectives of the Convention on International Civil Aviation, done at Chicago on 7 December 1944, are concerned. ICAO may assume these tasks in accordance with pertinent decisions of its Council;
- (r) as appropriate, enter into arrangements on behalf of the International Fund with other international bodies; and
- (s) consider any matter relating to this Convention that a State Party or the International Civil Aviation Organization has referred to it.

Article 10 - The meetings of the Conference of Parties

1. The Conference of Parties shall meet once a year, unless a Conference of Parties decides to hold its next meeting at another interval. The Director shall convene the meeting at a suitable time and place.
2. An extraordinary meeting of the Conference of Parties shall be convened by the Director:
 - (a) at the request of no less than one-fifth of the total number of States Parties;
 - (b) if an aircraft has caused damage falling within the scope of this Convention, and the damages are likely to exceed the applicable limit of liability according to Article 4 by more than 50 per cent of the available funds of the International Fund;
 - (c) if the aggregate limit on contributions according to Article 14, paragraph 3, has been reached; or
 - (d) if the Director has exercised the authority according to Article 11, paragraph 1 (d) or (e).
3. All States Parties shall have an equal right to be represented at the meetings of the Conference of Parties and each State Party shall be entitled to one vote. The International Civil Aviation Organisation shall have the right to be represented, without voting rights, at the meetings of the Conference of Parties.
4. A majority of the States Parties is required to constitute a quorum for the meetings of the Conference of Parties. Decisions of the Conference of Parties shall be taken by a majority vote of the States Parties present and voting. Decisions under Article 9, subparagraphs (a), (b), (c), (d), (e), (k), (m), (n) and (o) shall be taken by a two-thirds majority of the States Parties present and voting.

5. Any State Party may, within ninety days after the deposit of an instrument of denunciation the result of which it considers will significantly impair the ability of the International Fund to perform its functions, request the Director to convene an extraordinary meeting of the Conference of Parties. The Director may convene the Conference of Parties to meet not later than sixty days after receipt of the request.
6. The Director may convene, on his or her own initiative, an extraordinary meeting of the Conference of Parties to meet within sixty days after the deposit of any instrument of denunciation, if he or she considers that such denunciation will significantly impair the ability of the International Fund to perform its functions.
7. If the Conference of Parties at an extraordinary meeting convened in accordance with paragraph 5 or 6 decides by a two-thirds majority of the States Parties present and voting that the denunciation will significantly impair the ability of the International Fund to perform its functions, any State Party may, not later than one hundred and twenty days before the date on which the denunciation takes effect, denounce this Convention with effect from that same date.

Article 11 - The Secretariat and the Director

1. The International Fund shall have a Secretariat led by a Director. The Director shall hire personnel, supervise the Secretariat and direct the day-to-day activities of the International Fund. In addition, the Director:
 - (a) shall report to the Conference of Parties on the functioning of the International Fund and present its accounts and a budget;
 - (b) shall collect all contributions payable under this Convention, administer and invest the funds of the International Fund in accordance with the Guidelines on Investment, maintain

accounts for the funds, and assist in the auditing of the accounts and the funds in accordance with Article 17;

- (c) shall handle claims for compensation in accordance with the Guidelines for Compensation, and prepare a report for the Conference of Parties on how each has been handled;
- (d) may decide to temporarily take action under Article 19 until the next meeting of the Conference of Parties;
- (e) shall decide to temporarily take action under Article 18, paragraph 3, until the next meeting of the Conference of Parties called in accordance with Article 10, paragraph 2 (d);
- (f) shall review the sums prescribed under Articles 4 and 18 and inform the Conference of Parties of any revision to the limits of liability in accordance with Article 31; and
- (g) shall discharge any other duties assigned to him or her by or under this Convention and decide any other matter delegated by the Conference of Parties.

2. The Director and the other personnel of the Secretariat shall not seek or receive instructions in regard to the discharge of their responsibilities from any authority external to the International Fund. Each State Party undertakes to fully respect the international character of the responsibilities of the personnel and not seek to influence any of its nationals in the discharge of their responsibilities.

Article 12 - Contributions to the International Fund

1. The contributions to the International Fund shall be:
 - (a) the mandatory amounts collected in respect of each passenger and each tonne of cargo departing on an international commercial flight from an airport in a State Party. Where a State Party has made a declaration under

Article 2, paragraph 2, such amounts shall also be collected in respect of each passenger and each tonne of cargo departing on a commercial flight between two airports in that State Party; and

- (b) such amounts as the Conference of Parties may specify in respect of general aviation or any sector thereof.

The operator shall collect these amounts and remit them to the International Fund

2. Contributions collected in respect of each passenger and each tonne of cargo shall not be collected more than once in respect of each journey, whether or not that journey includes one or more stops or transfers.

Article 13 - Basis for fixing the contributions

1. Contributions shall be fixed having regard to the following principles:
 - (a) the objectives of the International Fund should be efficiently achieved;
 - (b) competition within the air transport sector should not be distorted;
 - (c) the competitiveness of the air transport sector in relation to other modes of transportation should not be adversely affected; and
 - (d) in relation to general aviation, the costs of collecting contributions shall not be excessive in relation to the amount of such contributions, taking into account the diversity that exists in this sector.

2. The Conference of Parties shall fix contributions in a manner that does not discriminate between States, operators, passengers and consignors or consignees of cargo.
3. On the basis of the budget drawn up according to Article 11 paragraph 1 (a), the contributions shall be fixed having regard to:
 - (a) the upper limit for compensation set out in Article 18, paragraph 2;
 - (b) the need for reserves where Article 18, paragraph 3, is applied;
 - (c) claims for compensation, measures to minimize or mitigate damages and financial assistance under this Convention;
 - (d) the costs and expenses of administration, including the costs and expenses incurred by meetings of the Conference of Parties;
 - (e) the income of the International Fund; and
 - (f) the availability of additional funds for compensation pursuant to Article 17, paragraph 4.

Article 14 - Period and rate of contributions

1. At its first meeting, the Conference of Parties shall decide the period and the rate of contributions in respect of passengers and cargo departing from a State Party to be made from the time of entry into force of this Convention for that State Party. If a State Party makes a declaration under Article 2, paragraph 2, initial contributions shall be paid in respect of passengers and cargo departing on flights covered by such declaration from the time it takes effect. The period and the rate shall be equal for all States Parties.
2. Contributions shall be fixed in accordance with paragraph 1 so that the funds available amount to 100 per cent of the limit of compensation set out in Article 18, paragraph 2, within four years. If the funds available are deemed sufficient in relation to the likely compensation or financial assistance to be provided in the foreseeable future and amount to 100 per cent of that limit, the Conference of Parties may decide that no further contributions shall

be made until the next meeting of the Conference of Parties, provided that both the period and rate of contributions shall be applied in respect of passengers and cargo departing from a State in respect of which this Convention subsequently enters into force.

3. The total amount of contributions collected by the International Fund within any period of two consecutive calendar years shall not exceed three times the maximum amount of compensation according to Article 18, paragraph 2.
4. Subject to Article 28, the contributions collected by an operator in respect of a State Party may not be used to provide compensation for an event which occurred in its territory prior to the entry into force of this Convention for that State Party.

Article 15 - Collection of the contributions

1. The Conference of Parties shall establish in the Regulations of the International Fund a transparent, accountable and cost-effective mechanism supporting the collection, remittal and recovery of contributions. When establishing the mechanism, the Conference of Parties shall endeavour not to impose undue burdens on operators and contributors to the funds of the International Fund. Contributions which are in arrears shall bear interest as provided for in the Regulations.
2. Where an operator does not collect or does not remit contributions it has collected to the International Fund, the International Fund shall take appropriate measures against such operator with a view to the recovery of the amount due. Each State Party shall ensure that an action to recover the amount due may be taken within its jurisdiction, notwithstanding in which State Party the debt actually accrued.

Article 16 - Duties of States Parties

1. Each State Party shall take appropriate measures, including imposing such sanctions as it may deem necessary, to ensure that

an operator fulfils its obligations to collect and remit contributions to the International Fund.

2. Each State Party shall ensure that the following information is provided to the International Fund:
 - (a) the number of passengers and quantity of cargo departing on international commercial flights from that State Party;
 - (b) such information on general aviation flights as the Conference of Parties may decide; and
 - (c) the identity of the operators performing such flights.
3. Where a State Party has made a declaration under Article 2, paragraph 2, it shall ensure that information detailing the number of passengers and quantity of cargo departing on commercial flights between two airports in that State Party, such information on general aviation flights as the Conference of Parties may decide, and the identity of the operators performing such flights, are also provided. In each case, such statistics shall be prima facie evidence of the facts stated therein.
4. Where a State Party does not fulfil its obligations under paragraphs 2 and 3 of this Article and this results in a shortfall in contributions for the International Fund, the State Party shall be liable for such shortfall. The Conference of Parties shall, on recommendation by the Director, decide whether the State Party shall pay for such shortfall.

Article 17 - The funds of the International Fund

1. The funds of the International Fund may only be used for the purposes set out in Article 8, paragraph 2.
2. The International Fund shall exercise the highest degree of prudence in the management and preservation of its funds. The funds shall be preserved in accordance with the Guidelines on Investment

determined by the Conference of Parties under Article 9, subparagraph (h). Investments may only be made in States Parties.

3. Accounts shall be maintained for the funds of the International Fund. The auditors of the International Fund shall review the accounts and report on them to the Conference of Parties.
4. Where the International Fund is not able to meet valid compensation claims because insufficient contributions have been collected, it may obtain credits from financial institutions for the payment of compensation and may grant security for such credits.

Chapter IV — Compensation from the International Fund

Article 18 - Compensation

1. The International Fund shall, under the same conditions as are applicable to the liability of the operator, provide compensation to persons suffering damage in the territory of a State Party. Where the damage is caused by an aircraft in flight on a flight other than an international flight, compensation shall only be provided if that State Party has made a declaration according to Article 2, paragraph 2. Compensation shall only be paid to the extent that the total amount of damages exceeds the limits according to Article 4.
2. The maximum amount of compensation available from the International Fund shall be 3,000,000,000 Special Drawing Rights for each event. Payments made according to paragraph 3 of this Article and distribution of amounts recovered according to Article 25 shall be in addition to the maximum amount for compensation.
3. If and to the extent that the Conference of Parties determines and for the period that it so determines that insurance in respect of the damage covered by this Convention is wholly or partially unavailable with respect to amounts of coverage or the risks

covered, or is only available at a cost incompatible with the continued operation of air transport generally, the International Fund may, at its discretion, in respect of future events causing damage compensable under this Convention, pay the damages for which the operators are liable under Articles 3 and 4 and such payment shall discharge such liability of the operators. The Conference of Parties shall decide on a fee, the payment of which by the operators, for the period covered, shall be a condition for the International Fund taking the action specified in this paragraph.

Article 19 - Advance payments and other measures

1. Subject to the decision of the Conference of Parties and in accordance with the Guidelines for Compensation, the International Fund may make advance payments without delay to natural persons who may be entitled to claim compensation under this Convention, in order to meet their immediate economic needs. Such advance payments shall not constitute recognition of a right to compensation and may be offset against any amount subsequently payable by the International Fund.
2. Subject to the decision of the Conference of Parties and in accordance with the Guidelines for Compensation, the International Fund may also take other measures to minimize or mitigate damage caused by an event.

Chapter V — Special provisions on compensation and recourse

Article 20 - Exoneration

Whom he or she derives his or her rights, done with intent or recklessly and with knowledge that damage would probably result, the operator or the International Fund shall be wholly or partly exonerated from its liability to that claimant to the extent that such act or omission caused or contributed to the damage.

Article 21 - Court costs and other expenses

1. The limits prescribed in Articles 4 and 18, paragraph 2, shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the claimant, including interest.
2. Paragraph 1 shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the operator has offered in writing to the claimant within a period of six months from the date of the event causing the damage, or before the commencement of the action, whichever is the later.

Article 22 - Priority of compensation

If the total amount of the damages to be paid exceeds the amounts available according to Articles 4 and 18, paragraph 2, the total amount shall be awarded preferentially to meet proportionately the claims in respect of death, bodily injury and mental injury, in the first instance. The remainder, if any, of the total amount payable shall be awarded proportionately among the claims in respect of other damage.

Article 23 - Additional compensation

1. To the extent the total amount of damages exceeds the aggregate amount payable under Articles 4 and 18, paragraph 2, a person who has suffered damage may claim additional compensation from the operator.
2. The operator shall be liable for such additional compensation to the extent the person claiming compensation proves that the operator or its employees have contributed to the occurrence of the event by an act or omission done with intent to cause damage or recklessly and with knowledge that damage would probably result.

3. Where an employee has contributed to the damage, the operator shall not be liable for any additional compensation under this Article if it proves that an appropriate system for the selection and monitoring of its employees has been established and implemented.
4. An operator or, if it is a legal person, its senior management shall be presumed not to have been reckless if it proves that it has established and implemented a system to comply with the security requirements specified pursuant to Annex 17 to the Convention on International Civil Aviation (Chicago, 1944) in accordance with the law of the State Party in which the operator has its principal place of business, or if it has no such place of business, its permanent residence.

Article 24 - Right of recourse of the operator

The operator shall have a right of recourse against:

- (a) any person who has committed, organized or financed the act of unlawful interference; and
- (b) any other person.

Article 25 - Right of recourse of the International Fund

The International Fund shall have a right of recourse against:

- (a) any person who has committed, organized or financed the act of unlawful interference;
- (b) the operator subject to the conditions set out in Article 23; and
- (c) any other person.

Article 26 - Restrictions on rights of recourse

1. The rights of recourse under Article 24, subparagraph (b), and Article 25, subparagraph (c), shall only arise to the extent that the person against whom recourse is sought could have been covered by insurance available on a commercially reasonable basis.

2. Paragraph 1 shall not apply if the person against whom recourse is sought under Article 25, subparagraph (c) has contributed to the occurrence of the event by an act or omission done recklessly and with knowledge that damage would probably result.
3. The International Fund shall not pursue any claim under Article 25, subparagraph (c) if the Conference of Parties determines that to do so would give rise to the application of Article 18, paragraph 3.

Article 27 - Exoneration from recourse

No right of recourse shall lie against an owner, lessor, or financier retaining title of or holding security in an aircraft, not being an operator, or against a manufacturer if that manufacturer proves that it has complied with the mandatory requirements in respect of the design of the aircraft, its engines or components.

Chapter VI — Assistance in case of events in States non-Party

Article 28 - Assistance in case of events in States non-Party

Where an operator, which has its principal place of business, or ~~if it has no such place of business, its permanent residence, in a State~~ Party, is liable for damage occurring in a State non-Party, the Conference of Parties may decide, on a case by case basis, that the International Fund shall provide financial support to that operator. Such support may only be provided:

- (a) in respect of damage that would have fallen under the Convention if the State non-Party had been a State Party;
- (b) if the State non-Party agrees in a form acceptable to the Conference of Parties to be bound by the provisions of this Convention in respect of the event giving rise to such damage;
- (c) up to the maximum amount for compensation set out in Article 18, paragraph 2; and

- (d) if the solvency of the operator liable is threatened even if support is given, where the Conference of Parties determines that the operator has sufficient arrangements protecting its solvency.

Chapter VII — Exercise of remedies and related provisions

Article 29 - Exclusive remedy

1. Without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights, any action for compensation for damage to a third party due to an act of unlawful interference, however founded, whether under this Convention or in tort or in contract or otherwise, can only be brought against the operator and, if need be, against the International Fund and shall be subject to the conditions and limits of liability set out in this Convention. No claims by a third party shall lie against any other person for compensation for such damage.
2. Paragraph 1 shall not apply to an action against a person who has committed, organized or financed an act of unlawful interference.

Article 30 - Conversion of Special Drawing Rights

The sums mentioned in terms of Special Drawing Right in this Convention shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgement. The value in a national currency shall be calculated in accordance with the method of valuation applied by the International Monetary Fund for its operations and transactions. The value in a national currency, of a State Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that State to express in the national currency of the State Party as far as possible the same real value as the amounts in Article 4.

Article 31 - Review of limits

1. Subject to paragraph 2 of this Article, the sums prescribed in Articles 4 and 18, paragraph 2, shall be reviewed by the Director of the International Fund, by reference to an inflation factor which corresponds to the accumulated rate of inflation since the previous revision or in the first instance since the date of entry into force of this Convention. The measure of the rate of inflation to be used in determining the inflation factor shall be the weighted average of the annual rates of increase or decrease in the Consumer Price Indices of the States whose currencies comprise the Special Drawing Right mentioned in Article 30.
2. If the review referred to in the preceding paragraph concludes that the inflation factor has exceeded 10 per cent, the Director shall inform the Conference of Parties of a revision of the limits of liability. Any such revision shall become effective six months after the meeting of the Conference of Parties, unless a majority of the States Parties register their disapproval. The Director shall immediately notify all States Parties of the coming into force of any revision.

Article 32 - Forum

1. Subject to paragraph 2 of this Article, actions for compensation under the provisions of this Convention may be brought only before the courts of the State Party in whose territory the damage occurred.
2. Where damage occurs in more than one State Party, actions under the provisions of this Convention may be brought only before the courts of the State Party the territory of which the aircraft was in or about to leave when the event occurred.
3. Without prejudice to paragraphs 1 and 2 of this Article, application may be made in any State Party for such provisional measures, including protective measures, as may be available under the law of that State.

Article 33 - Intervention by the International Fund

1. Each State Party shall ensure that the International Fund has the right to intervene in proceedings brought against the operator in its courts.
2. Except as provided in paragraph 3 of this Article, the International Fund shall not be bound by any judgement or decision in proceedings to which it has not been a party or in which it has not intervened.
3. If an action is brought against the operator in a State Party, each party to such proceedings shall be entitled to notify the International Fund of the proceedings. Where such notification has been made in accordance with the law of the court seised and in such time that the International Fund had time to intervene in the proceedings, the International Fund shall be bound by a judgement or decision in proceedings even if it has not intervened.

Article 34 - Recognition and enforcement of judgements

1. Subject to the provisions of this Article, judgements entered by a ~~competent court under Article 32 after trial, or by default,~~ shall when they are enforceable in the State Party of that court be enforceable in any other State Party as soon as the formalities required by that State Party have been complied with.
2. The merits of the case shall not be reopened in any application for recognition or enforcement under this Article.
3. Recognition and enforcement of a judgement may be refused if:
 - (a) its recognition or enforcement would be manifestly contrary to public policy in the State Party where recognition or enforcement is sought;

- (b) the defendant was not served with notice of the proceedings in such time and manner as to allow him or her to prepare and submit a defence;
 - (c) it is in respect of a cause of action which had already, as between the same parties, formed the subject of a judgement or an arbitral award which is recognized as final and conclusive under the law of the State Party where recognition or enforcement is sought;
 - (d) the judgement has been obtained by fraud of any of the parties; or
 - (e) the right to enforce the judgement is not vested in the person by whom the application is made.
4. Recognition and enforcement of a judgement may also be refused to the extent that the judgement awards damages, including exemplary or punitive damages, that do not compensate a third party for actual harm suffered.
5. Where a judgement is enforceable, payment of any court costs and other expenses incurred by the plaintiff, including interest recoverable under the judgement, shall also be enforceable.

Article 35 - Regional and multilateral agreements on the recognition and enforcement of judgements

1. States Parties may enter into regional and multilateral agreements regarding the recognition and enforcement of judgements consistent with the objectives of this Convention, provided that such agreements do not result in a lower level of protection for any third party or defendant than that provided for in this Convention.
2. States Parties shall inform each other, through the Depositary, of any such regional or multilateral agreements that they have entered into before or after the date of entry into force of this Convention.
3. The provisions of this Chapter shall not affect the recognition or enforcement of any judgement pursuant to such agreements.

Article 36 - Period of limitation

1. The right to compensation under Article 3 shall be extinguished if an action is not brought within two years from the date of the event which caused the damage.
2. The right to compensation under Article 18 shall be extinguished if an action is not brought, or a notification pursuant to Article 33, paragraph 3, is not made, within two years from the date of the event which caused the damage.
3. The method of calculating such two-year period shall be determined in accordance with the law of the court seized of the case.

Article 37 - Death of person liable

In the event of the death of the person liable, an action for damages lies against those legally representing his or her estate and is subject to the provisions of this Convention.

Chapter VIII - Final clauses**Article 38 – Signature, ratification, acceptance, approval or accession**

1. This Convention shall be open for signature in Montréal on 2 May 2009 by States participating in the International Conference on Air Law held at Montréal from 20 April to 2 May 2009. After 2 May 2009, the Convention shall be open to all States for signature at the headquarters of the International Civil Aviation Organisation in Montréal until it enters into force in accordance with Article 40.
2. This Convention shall be subject to ratification by States which have signed it.
3. Any State which does not sign this Convention may accept, approve or accede to it at any time.
4. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Civil Aviation Organisation, which is hereby designated the Depositary.

Article 39 - Regional Economic Integration Organizations

1. A Regional Economic Integration Organization which is constituted by sovereign States and has competence over certain matters governed by this Convention may similarly sign, ratify, accept, approve or accede to this Convention. The Regional Economic Integration Organization shall in that case have the rights and obligations of a State Party, to the extent that the Organization has competence over matters governed by this Convention. Where the number of States Parties is relevant in this Convention, including in respect of Article 10, the Regional Economic Integration Organization shall not count as a State Party in addition to its Member States which are States Parties.
2. The Regional Economic Integration Organization shall, at the time of signature, ratification, acceptance, approval or accession, make a declaration to the Depositary specifying the matters governed by this Convention in respect of which competence has been transferred to that Organisation by its Member States. The Regional Economic Integration Organisation shall promptly notify the Depositary of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.
3. Any reference to a “State Party” or “States Parties” in this Convention applies equally to a Regional Economic Integration Organisation where the context so requires.

Article 40 - Entry into force

1. This Convention shall enter into force on the one hundred and eightieth day after the deposit of the thirty-fifth instrument of ratification, acceptance, approval or accession on condition, however, that the total number of passengers departing in the previous year from airports in the States that have ratified, accepted, approved or acceded is at least 750,000, 000 as appears from the declarations made by ratifying, accepting, approving or acceding States. If, at the time of deposit of the thirty-fifth instrument of

ratification, acceptance, approval or accession this condition has not been fulfilled, the Convention shall not come into force until the one hundred and eightieth day after this condition shall have been satisfied. An instrument deposited by a Regional Economic Integration Organisation shall not be counted for the purpose of this paragraph.

2. This Convention shall come into force for each State ratifying, accepting, approving or acceding after the deposit of the last instrument of ratification, acceptance, approval or accession necessary for entry into force of this Convention on the ninetieth day after the deposit of its instrument of ratification, acceptance, approval or accession.
 3. At the time of deposit of its instrument of ratification, acceptance, approval or accession a State shall declare the total number of passengers that departed on international commercial flights from airports in its territory in the previous year. The declaration at Article 2, paragraph 2, shall include the number of domestic passengers in the previous year and that number shall be counted for the purposes of determining the total number of passengers required under paragraph 1.
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4. In making such declarations a State shall endeavour not to count a passenger that has already departed from an airport in a State Party on a journey including one or more stops or transfers. Such declarations may be amended from time to time to reflect passenger numbers in subsequent years. If a declaration is not amended, the number of passengers shall be presumed to be constant.

Article 41 - Denunciation

1. Any State Party may denounce this Convention by written notification to the Depositary.
2. Denunciation shall take effect one year following the date on which notification is received by the Depositary; in respect of damage

contemplated in Article 3 arising from events which occurred before the expiration of the one year period and the contributions required to cover such damage, the Convention shall continue to apply as if the denunciation had not been made.

Article 42 - Termination

1. This Convention shall cease to be in force on the date when the number of States Parties falls below eight or on such earlier date as the Conference of Parties shall decide by a two-thirds majority of States that have not denounced the Convention.
2. States which are bound by this Convention on the day before the date it ceases to be in force shall enable the International Fund to exercise its functions as described under Article 43 of this Convention and shall, for that purpose only, remain bound by this Convention.

Article 43 - Winding up of the International Fund

1. If this Convention ceases to be in force, the International Fund shall nevertheless:
 - (a) meet its obligations in respect of any event occurring before the Convention ceased to be in force and of any credits obtained pursuant to paragraph 4 of Article 17 while the Convention was still in force; and
 - (b) be entitled to exercise its rights to contributions to the extent that these contributions are necessary to meet the obligations under subparagraph (a), including expenses for the administration of the International Fund necessary for this purpose.
2. The Conference of Parties shall take all appropriate measures to complete the winding up of the International Fund including the distribution in an equitable manner of any remaining assets for a purpose consonant with the aims of this Convention or for the benefit of those persons who have contributed to the International Fund.

3. For the purposes of this Article the International Fund shall remain a legal person.

Article 44 - Relationship to other treaties

1. The rules of this Convention shall prevail over any rules in the following instruments which would otherwise be applicable to damage covered by this Convention:
 - (a) the Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface, Signed at Rome on 7 October 1952; or
 - (b) the Protocol to Amend the Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface, Signed at Rome on 7 October 1952, Signed at Montréal on 23 September 1978.

Article 45 - States with more than one system of law

1. If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.
2. Any such declaration shall be notified to the Depositary and shall state expressly the territorial units to which the Convention applies.
3. For a declaration made under Article 2, paragraph 2, by a State Party having two or more territorial units in which different systems of law are applicable, it may declare that this Convention shall apply to damage to third parties that occurs in all its territorial units or in one or more of them and may modify this declaration by submitting another declaration at any time.

4. In relation to a State Party which has made a declaration under this Article:
 - (a) the reference in Article 6 to “the law of the State” shall be construed as referring to the law of the relevant territorial unit of that State; and
 - (b) references in Article 30 to “national currency” shall be construed as referring to the currency of the relevant territorial unit of that State.

Article 46 - Reservations and declarations

1. No reservation may be made to this Convention but declarations authorised by Article 2, paragraph 2, Article 39, paragraph 2, Article 40, paragraph 3, and Article 45 may be made in accordance with these provisions.
2. Any declaration or any withdrawal of a declaration made under this Convention shall be notified in writing to the Depositary.

Article 47 - Functions of the Depositary

The Depositary shall promptly notify all signatories and States Parties of:

- ~~(a) each new signature of this Convention and the date thereof;~~
- (b) each deposit of an instrument of ratification, acceptance, approval or accession and the date thereof;
- (c) the date of entry into force of this Convention;
- (d) the date of the coming into force of any revision of the limits of liability established under this Convention;
- (e) each declaration or modification thereto, together with the date thereof;
- (f) the withdrawal of any declaration and the date thereof;
- (g) any denunciation together with the date thereof and the date on which it takes effect; and
- (h) the termination of the Convention.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Convention.

DONE at Montréal on the 2nd day of May of the year two thousand and nine in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic, such authenticity to take effect upon verification by the Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the conformity of the texts with one another.

This Convention shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Depositary to all Contracting States to this Convention, as well as to all States Parties to the Convention and Protocol referred to in Article 44.

NINTH SCHEDULE

(section 36(9))

**2009 CONVENTION ON COMPENSATION FOR DAMAGE
CAUSED BY AIRCRAFT TO THIRD PARTIES**

Chapter I — Principles

Article 1 — Definitions

Article 2 — Scope

Chapter II — Liability of the operator and related issues

Article 3 — Liability of the operator

Article 4 — Limit of the operator's liability

Article 5 — Priority of compensation

Article 6 — Events involving two or more operators

Article 7 — Court costs and other expenses

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Chapter III — Exoneration and recourse

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Article 12 — Exclusive remedy

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Article 27 – Reservations and declarations

Article 28 – Functions of the Depositary

THE STATES PARTIES TO THIS CONVENTION, RECOGNIZING the need to ensure adequate compensation for third parties who suffer damage resulting from events involving an aircraft in flight;

RECOGNIZING the need to modernize the Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface, signed at Rome on 7 October 1952, and the Protocol to Amend the Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface, signed at Rome on 7 October 1952, Signed at Montreal on 23 September 1978;

RECOGNIZING the importance of ensuring protection of the interests of third-party victims and the need for equitable compensation, as well as the need to enable the continued stability of the aviation industry;

REAFFIRMING the desirability of the orderly development of international air transport operations and the smooth flow of passengers, baggage and cargo in accordance with the principles and objectives of the Convention on International Civil Aviation, done at Chicago on 7 December 1944; and

CONVINCED that collective State action for further harmonization and codification of certain rules governing the compensation of third parties who suffer damage resulting from events involving aircraft in flight

through a new Convention is the most desirable and effective means of achieving an equitable balance of interests;

HAVE AGREED AS FOLLOWS:

Chapter I—Principles

Article 1 - Definitions

For the purposes of this Convention:

- (a) an “act of unlawful interference” means an act which is defined as an offence in the Convention for the Suppression of Unlawful Seizure of Aircraft, Signed at The Hague on 16 December 1970, or the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, Signed at Montreal on 23 September 1971, and any amendment in force at the time of the event;
- (b) an “event” occurs when damage is caused by an aircraft in flight other than as a result of an act of unlawful interference;
- (c) an aircraft is considered to be “in flight” at any time from the moment when all its external doors are closed following embarkation or loading until the moment when any such door is opened for disembarkation or unloading;
- (d) “international flight” means any flight whose place of departure and whose intended destination are situated within the territories of two States, whether or not there is a break in the flight, or within the territory of one State if there is an intended stopping place in the territory of another State;
- (e) “maximum mass” means the maximum certificated take-off mass of the aircraft, excluding the effect of lifting gas when used;
- (f) “operator” means the person who makes use of the aircraft, provided that if control of the navigation of the aircraft is retained by the person from whom the right to make use of

the aircraft is derived, whether directly or indirectly, that person shall be considered the operator. A person shall be considered to be making use of an aircraft when he or she is using it personally or when his or her servants or agents are using the aircraft in the course of their employment, whether or not within the scope of their authority;

- (g) “person” means any natural or legal person, including a State;
- (h) “State Party” means a State for which this Convention is in force; and
- (i) “third party” means a person other than the operator, passenger or consignor or consignee of cargo.

Article 2 - Scope

1. This Convention applies to damage to third parties which occurs in the territory of a State Party caused by an aircraft in flight on an international flight, other than as a result of an act of unlawful interference.
2. If a State Party so declares to the Depositary, this Convention shall also apply where an aircraft in flight other than on an international flight causes damage in the territory of that State, other than as a result of an act of unlawful interference.
3. For the purposes of this Convention:
 - (a) damage to a ship in or an aircraft above the High Seas or the Exclusive Economic Zone shall be regarded as damage occurring in the territory of the State in which it is registered; however, if the operator of the aircraft has its principal place of business in the territory of a State other than the State of Registry, the damage to the aircraft shall be regarded as having occurred in the territory of the State in which it has its principal place of business; and

(b) damage to a drilling platform or other installation permanently fixed to the soil in the Exclusive Economic Zone or the Continental Shelf shall be regarded as having occurred in the territory of the State which has jurisdiction over such platform or installation in accordance with international law including the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982.

4. This Convention shall not apply to damage caused by State aircraft. Aircraft used in military, customs and police services shall be deemed to be State aircraft.

Chapter II — Liability of the operator and related issues

Article 3 - Liability of the operator

1. The operator shall be liable for damage sustained by third parties upon condition only that the damage was caused by an aircraft in flight.
2. There shall be no right to compensation under this Convention if the damage is not a direct consequence of the event giving rise thereto, or if the damage results from the mere fact of passage of the aircraft through the airspace in conformity with existing air traffic regulations.
3. Damages due to death, bodily injury and mental injury shall be compensable. Damages due to mental injury shall be compensable only if caused by a recognizable psychiatric illness resulting either from bodily injury or from direct exposure to the likelihood of imminent death or bodily injury.
4. Damage to property shall be compensable.

5. Environmental damage shall be compensable, in so far as such compensation is provided for under the law of the State Party in the territory of which the damage occurred.
6. No liability shall arise under this Convention for damage caused by a nuclear incident as defined in the Paris Convention on Third Party Liability in the Field of Nuclear Energy (29 July 1960) or for nuclear damage as defined in the Vienna Convention on Civil Liability for Nuclear Damage (21 May 1963), and any amendment or supplements to these Conventions in force at the time of the event.
7. Punitive, exemplary or any other non-compensatory damages shall not be recoverable.
8. An operator who would otherwise be liable under the provisions of this Convention shall not be liable if the damage is the direct consequence of armed conflict or civil disturbance.

Article 4 - Limit of the operator's liability

1. The liability of the operator arising under Article 3 shall not ~~exceed for an event the following limit based on the mass of the aircraft involved:~~
 - (a) 750 000 Special Drawing Rights for aircraft having a maximum mass of 500 kilogrammes or less;
 - (b) 1 500 000 Special Drawing Rights for aircraft having a maximum mass of more than 500 kilogrammes but not exceeding 1 000 kilogrammes;
 - (c) 3 000 000 Special Drawing Rights for aircraft having a maximum mass of more than 1 000 kilogrammes but not exceeding 2 700 kilogrammes;
 - (d) 7 000 000 Special Drawing Rights for aircraft having a maximum mass of more than 2 700 kilogrammes but not exceeding 6 000 kilogrammes;

- (e) 18 000 000 Special Drawing Rights for aircraft having a maximum mass of more than 6 000 kilogrammes but not exceeding 12 000 kilogrammes;
 - (f) 80 000 000 Special Drawing Rights for aircraft having a maximum mass of more than 12 000 kilogrammes but not exceeding 25 000 kilogrammes;
 - (g) 150 000 000 Special Drawing Rights for aircraft having a maximum mass of more than 25 000 kilogrammes but not exceeding 50 000 kilogrammes;
 - (h) 300 000 000 Special Drawing Rights for aircraft having a maximum mass of more than 50 000 kilogrammes but not exceeding 200 000 kilogrammes;
 - (i) 500 000 000 Special Drawing Rights for aircraft having a maximum mass of more than 200 000 kilogrammes but not exceeding 500 000 kilogrammes;
 - (j) 700 000 000 Special Drawing Rights for aircraft having a maximum mass of more than 500 000 kilogrammes.
2. If an event involves two or more aircraft operated by the same operator, the limit of liability in respect of the aircraft with the highest maximum mass shall apply.
3. The limits in this Article shall only apply if the operator proves that the damage:
- (a) was not due to its negligence or other wrongful act or omission or that of its servants or agents; or
 - (b) was solely due to the negligence or other wrongful act or omission of another person.

Article 5 - Priority of compensation

If the total amount of the damages to be paid exceeds the amounts available according to Article 4, paragraph 1, the total amount shall be awarded preferentially to meet proportionately the claims in respect of

death, bodily injury and mental injury, in the first instance. The remainder, if any, of the total amount payable shall be awarded proportionately among the claims in respect of other damage.

Article 6 - Events involving two or more operators

1. Where two or more aircraft have been involved in an event causing damage to which this Convention applies, the operators of those aircraft are jointly and severally liable for any damage suffered by a third party.
2. If two or more operators are so liable, the recourse between them shall depend on their respective limits of liability and their contribution to the damage.
3. No operator shall be liable for a sum in excess of the limit, if any, applicable to its liability.

Article 7 - Court costs and other expenses

1. The court may award, in accordance with its own law, the whole or part of the court costs and of the other expenses of the litigation incurred by the claimant, including interest.
2. Paragraph 1 shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the operator has offered in writing to the claimant within a period of six months from the date of the event causing the damage, or before the commencement of the action, whichever is the later.

Article 8 - Advance payments

If required by the law of the State where the damage occurred, the operator shall make advance payments without delay to natural persons who may be entitled to claim compensation under this Convention, in order to meet their immediate economic needs. Such advance payments shall not constitute a recognition of liability and may be offset against any amount subsequently payable as damages by the operator.

Article 9 - Insurance

1. Having regard to Article 4, States Parties shall require their operators to maintain adequate insurance or guarantee covering their liability under this Convention.
2. An operator may be required by the State Party in or into which it operates to furnish evidence that it maintains adequate insurance or guarantee. In doing so, the State Party shall apply the same criteria to operators of other States Parties as it applies to its own operators.

Chapter III - Exoneration and recourse

Article 10 - Exoneration

If the operator proves that the damage was caused, or contributed to, by the negligence or other wrongful act or omission of a claimant, or the person from whom he or she derives his or her rights, the operator shall be wholly or partly exonerated from its liability to that claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage.

Article 11 - Right of recourse

Subject to Article 13, nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any person.

Chapter IV - Exercise of remedies and related provisions

Article 12 - Exclusive remedy

1. Any action for compensation for damage to third parties caused by an aircraft in flight brought against the operator, or its servants or agents, however founded, whether under this Convention or in tort or otherwise, can only be brought subject to the conditions set out in this Convention without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights.

2. Article 3, paragraphs 6, 7 and 8, shall apply to any other person from whom the damages specified in those paragraphs would otherwise be recoverable or compensable, whether under this Convention or in tort or otherwise.

Article 13 - Exclusion of liability

Neither the owner, lessor or financier retaining title or holding security of an aircraft, not being an operator, nor their servants or agents, shall be liable for damages under this Convention or the law of any State Party relating to third party damage.

Article 14 - Conversion of Special Drawing Rights

The sums mentioned in terms of Special Drawing Right in this Convention shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgement. The value in a national currency shall be calculated in accordance with the method of valuation applied by the International Monetary Fund for its operations and transactions. The value in a national currency, of a State Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that State to express in the national currency of the State Party as far as possible the same real value as the amounts in Article 4, paragraph 1.

Article 15 - Review of limits

1. Subject to paragraph 2 of this Article, the sums prescribed in Article 4, paragraph 1, shall be reviewed by the Depositary by reference to an inflation factor which corresponds to the accumulated rate of inflation since the previous revision or in the first instance since the date of entry into force of this Convention. The measure of the rate of inflation to be used in determining the inflation factor shall be the weighted average of the annual rates of increase or decrease in the Consumer Price Indices of the States whose currencies comprise the Special Drawing Right mentioned in Article 14.

2. If the review referred to in the preceding paragraph concludes that the inflation factor has exceeded 10 per cent, the Depositary shall notify the States Parties of a revision of the limits of liability. Any such revision shall become effective six months after the notification to the States Parties, unless a majority of the States Parties register their disapproval. The Depositary shall immediately notify all States Parties of the coming into force of any revision.

Article 16 - Forum

1. Subject to paragraph 2 of this Article, actions for compensation under the provisions of this Convention may be brought only before the courts of the State Party in whose territory the damage occurred.
2. Where damage occurs in more than one State Party, actions under the provisions of this Convention may be brought only before the courts of the State Party the territory of which the aircraft was in or about to leave when the event occurred.
3. Without prejudice to paragraphs 1 and 2 of this Article, application may be made in any State Party for such provisional measures, including protective measures, as may be available under the law of that State.

Article 17 - Recognition and enforcement of judgements

1. Subject to the provisions of this Article, judgements entered by a competent court under Article 16 after trial, or by default, shall when they are enforceable in the State Party of that court be enforceable in any other State Party as soon as the formalities required by that State Party have been complied with.
2. The merits of the case shall not be reopened in any application for recognition or enforcement under this Article.

3. Recognition and enforcement of a judgement may be refused if:
- (a) its recognition or enforcement would be manifestly contrary to public policy in the State Party where recognition or enforcement is sought;
 - (b) the defendant was not served with notice of the proceedings in such time and manner as to allow him or her to prepare and submit a defence;
 - (c) it is in respect of a cause of action which had already, as between the same parties, formed the subject of a judgement or an arbitral award which is recognised as final and conclusive under the law of the State Party where recognition or enforcement is sought;
 - (d) the judgement has been obtained by fraud of any of the parties; or
 - (e) the right to enforce the judgement is not vested in the person by whom the application is made.
4. Recognition and enforcement of a judgement may also be refused to the extent that the judgement awards damages, including exemplary or punitive damages, that do not compensate a third party for actual harm suffered.
5. Where a judgement is enforceable, payment of any court costs and other expenses incurred by the plaintiff, including interest recoverable under the judgement, shall also be enforceable.

Article 18 - Regional and multilateral agreements on the recognition and enforcement of judgements

1. States Parties may enter into regional and multilateral agreements regarding the recognition and enforcement of judgements consistent with the objectives of this Convention, provided that such agreements do not result in a lower level of protection for any third party or defendant than that provided for in this Convention.

2. States Parties shall inform each other, through the Depositary, of any such regional or multilateral agreements that they have entered into before or after the date of entry into force of this Convention.
3. The provisions of this Chapter shall not affect the recognition or enforcement of any judgement pursuant to such agreements.

Article 19 - Period of limitation

1. The right to compensation under Article 3 shall be extinguished if an action is not brought within two years from the date of the event which caused the damage.
2. The method of calculating such two-year period shall be determined in accordance with the law of the court seised of the case.

Article 20 - Death of person liable

In the event of the death of the person liable, an action for damages lies against those legally representing his or her estate and is subject to the provisions of this Convention.

CHAPTER V — Final clauses

Article 21 - Signature, ratification, acceptance, approval or accession

1. This Convention shall be open for signature in Montréal on 2 May 2009 by States participating in the International Conference on Air Law held at Montréal from 20 April to 2 May 2009. After 2 May 2009, the Convention shall be open to all States for signature at the Headquarters of the International Civil Aviation Organisation in Montréal until it enters into force in accordance with Article 23.
2. This Convention shall be subject to ratification by States which have signed it.
3. Any State which does not sign this Convention may accept, approve or accede to it at any time.

4. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Civil Aviation Organization, which is hereby designated the Depositary.

Article 22 - Regional Economic Integration Organizations

1. A Regional Economic Integration Organisation which is constituted by sovereign States and has competence over certain matters governed by this Convention may similarly sign, ratify, accept, approve or accede to this Convention. The Regional Economic Integration Organisation shall in that case have the rights and obligations of a State Party to the extent that that Organization has competence over matters governed by this Convention.
2. The Regional Economic Integration Organisation shall, at the time of signature, ratification, acceptance, approval or accession, make a declaration to the Depositary specifying the matters governed by this Convention in respect of which competence has been transferred to that Organisation by its Member States. The Regional Economic Integration Organisation shall promptly notify the Depositary of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.
3. Any reference to a “State Party” or “States Parties” in this Convention applies equally to a Regional Economic Integration Organization where the context so requires.

Article 23 - Entry into force

1. This Convention shall enter into force on the sixtieth day following the date of deposit of the thirty-fifth instrument of ratification, acceptance, approval or accession with the Depositary between the States which have deposited such instruments. An instrument deposited by a Regional Economic Integration Organisation shall not be counted for the purpose of this paragraph.

2. For other States and for other Regional Economic Integration Organisations, this Convention shall take effect sixty days following the date of deposit of the instrument of ratification, acceptance, approval or accession.

Article 24 - Denunciation

1. Any State Party may denounce this Convention by written notification to the Depositary.
2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the Depositary; in respect of damage contemplated in Article 3 arising from an event which occurred before the expiration of the one hundred and eighty day period, the Convention shall continue to apply as if the denunciation had not been made.

Article 25 - Relationship to other treaties

The rules of this Convention shall prevail over any rules in the following instruments which would otherwise be applicable to damage covered by this Convention:

- (a) the Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface, Signed at Rome on 7 October 1952; or
- (b) the Protocol to Amend the Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface, signed at Rome on 7 October 1952, signed at Montréal on 23 September 1978.

Article 26 - States with more than one system of law

1. If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

2. Any such declaration shall be notified to the Depositary and shall state expressly the territorial units to which this Convention applies.
3. For a declaration made under Article 2, paragraph 2, by a State Party having two or more territorial units in which different systems of law are applicable, it may declare that this Convention shall apply to damage to third parties that occurs in all its territorial units or in one or more of them and may modify this declaration by submitting another declaration at any time.
4. In relation to a State Party which has made a declaration under this Article:
 - (a) the reference in Article 8 to “the law of the State” shall be construed as referring to the law of the relevant territorial unit of that State; and
 - (b) references in Article 14 to “national currency” shall be construed as referring to the currency of the relevant territorial unit of that State.

Article 27 - Reservations and declarations

1. No reservation may be made to this Convention but declarations authorized by Article 2, paragraph 2, Article 22, paragraph 2, and Article 26 may be made in accordance with these provisions.
2. Any declaration or any withdrawal of a declaration made under this Convention shall be notified in writing to the Depositary.

Article 28 - Functions of the Depositary

The Depositary shall promptly notify all signatories and States Parties of:

- (a) each new signature of this Convention and the date thereof;

- (b) each deposit of an instrument of ratification, acceptance, approval or accession and the date thereof;
- (c) each declaration and the date thereof;
- (d) the modification or withdrawal of any declaration and the date thereof;
- (e) the date of entry into force of this Convention;
- (f) the date of the coming into force of any revision of the limits of liability established under this Convention; and
- (g) any denunciation with the date thereof and the date on which it takes effect.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorised, have signed this Convention.

DONE at Montréal on the 2nd day of May of the year two thousand and nine in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic, such authenticity to take effect upon verification by the Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the conformity of the texts with one another.

This Convention shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Depositary to all Contracting States to this Convention, as well as to all States Parties to the Conventions and Protocol referred to in Article 25.

TENTH SCHEDULE

(section 36(10))

**PROTOCOL RELATING TO AN AMENDMENT TO ARTICLE
50(a) OF THE CONVENTION ON INTERNATIONAL CIVIL
AVIATION**

Signed at Montréal on 6 October 2016

THE ASSEMBLY OF THE INTERNATIONAL CIVIL AVIATION
ORGANIZATION

HAVING MET in its Thirty-ninth Session at Montréal on 1 October
2016,

HAVING NOTED that it is the desire of a large number of Contracting
States to enlarge the membership of the Council in order to ensure better
balance by means of an increased representation of Contracting States,

HAVING CONSIDERED it appropriate to increase the membership of
that body from thirty-six to forty,

HAVING CONSIDERED it necessary to amend, for the purpose
aforesaid, the Convention on International Civil Aviation done at
Chicago on the seventh day of December 1944,

1. APPROVES, in accordance with the provisions of Article 94(a) of
the Convention aforesaid, the following proposed amendment to
the said Convention:

“In Article 50(a) of the Convention the second sentence shall be amended
by replacing ‘thirty-six’ by ‘forty’.”;

2. SPECIFIES, pursuant to the provisions of the said Article 94(a) of
the said Convention, one hundred and twenty-eight as the
number of Contracting States upon whose ratification the
proposed amendment aforesaid shall come into force;

3. RESOLVES that the Secretary General of the International Civil Aviation Organization draw up a Protocol, in the English, Arabic, Chinese, French, Russian and Spanish languages, each of which shall be of equal authenticity, embodying the amendment above-mentioned and the matter hereinafter appearing:
- (a) The Protocol shall be signed by the President of the Assembly and its Secretary General.
 - (b) The Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation.
 - (c) The instruments of ratification shall be deposited with the International Civil Aviation Organization.
 - (d) The Protocol shall come into force in respect of the States which have ratified it on the date on which the one hundred and twenty-eighth instrument of ratification is so deposited.
 - (e) The Secretary General shall immediately notify all Contracting States of the date of deposit of each ratification of the Protocol.
 - (f) The Secretary General shall immediately notify all Contracting States to the said Convention of the date on which the Protocol comes into force.
 - (g) With respect to any Contracting State ratifying the Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

CONSEQUENTLY, pursuant to the aforesaid action of the Assembly,

This Protocol has been drawn up by the Secretary General of the Organization.

IN WITNESS WHEREOF, the President and the Secretary General of the aforesaid Thirty-ninth Session of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, sign this Protocol.

DONE at Montréal on the sixth day of October of the year two thousand and sixteen, in a single document in the English, Arabic, Chinese, French, Russian and Spanish languages, each text being equally authentic. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Secretary General of the Organization to all Contracting States to the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944.

A. Abdul Rahman

*President of the Thirty-ninth
Session of the Assembly*

F. Liu

Secretary General

ELEVENTH SCHEDULE

(section 36(11))

**PROTOCOL RELATING TO AN AMENDMENT TO
ARTICLE 56 OF THE CONVENTION ON
INTERNATIONAL CIVIL AVIATION**

THE ASSEMBLY OF THE INTERNATIONAL CIVIL AVIATION
ORGANIZATION

HAVING MET in its Thirty-ninth Session at Montréal on 1 October
2016,

HAVING NOTED that it is the general desire of Contracting States
to enlarge the membership of the Air Navigation Commission,

HAVING CONSIDERED it proper to increase the membership of
that body from nineteen to twenty-one, and

HAVING CONSIDERED it necessary to amend, for the purpose
~~aforesaid, the Convention on International Civil Aviation done~~
at Chicago on the seventh day of December 1944,

1. APPROVES, in accordance with the provisions of Article
94(a) of the Convention aforesaid, the following proposed
amendment to the said Convention:

“In Article 56 of the Convention the expression ‘nineteen
members’ shall be replaced by ‘twenty-one members’.”;

2. SPECIFIES, pursuant to the provisions of the said Article
94(a) of the said Convention, one hundred and twenty-eight
as the number of Contracting States upon whose ratification
the aforesaid amendment shall come into force; and

3. RESOLVES that the Secretary General of the International Civil Aviation Organization shall draw up a Protocol, in the English, Arabic, Chinese, French, Russian and Spanish languages, each of which shall be of equal authenticity, embodying the amendment above-mentioned and the matters hereinafter appearing:
- (a) The Protocol shall be signed by the President of the Assembly and its Secretary General.
 - (b) The Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation.
 - (c) The instruments of ratification shall be deposited with the International Civil Aviation Organization.
 - (d) The Protocol shall come into force in respect of the States that have ratified it on the date on which the one hundred and twenty-eighth instrument of ratification is so deposited.
-
- (e) The Secretary General shall immediately notify all Contracting States of the date of deposit of each ratification of the Protocol.
 - (f) The Secretary General shall immediately notify all Contracting States to the said Convention of the date on which the Protocol comes into force.
 - (g) With respect to any Contracting State ratifying the Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

CONSEQUENTLY, pursuant to the aforesaid action of the Assembly,

This Protocol has been drawn up by the Secretary General of the Organization.

IN WITNESS WHEREOF, the President and the Secretary General of the aforesaid Thirty-ninth Session of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, sign this Protocol.

DONE at Montréal on the sixth day of October of the year two thousand and sixteen, in a single document in the English, Arabic, Chinese, French, Russian and Spanish languages, each text being equally authentic. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Secretary General of the Organization to all Contracting States to the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944.

A. Abdul Rahman

*President of the Thirty-ninth
Session of the Assembly*

F. Liu

Secretary General

TWELFTH SCHEDULE

(section 36(12))

**CONSTITUTION OF THE AFRICAN CIVIL AVIATION
COMMISSION**

WHEREAS civil aviation plays an important role in achieving the objectives of the African Union (AU) as enshrined in the Constitutive Act of the African Union adopted by the Heads of State and Government on 11 July 2000 in Lomé, Togo;

WHEREAS the development of safe and orderly air transport services into, within and from Africa is to be established on the basis of equality of opportunity and operated soundly and economically as envisaged in the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944;

WHEREAS the African Civil Aviation Commission (AFCAC) was conceived by the Constitutive Conference convened by the International Civil Aviation Organization (ICAO) and the Organization of African Unity (OAU) in Addis Ababa, Ethiopia in 1969 and became an OAU/AU Specialized Agency on 11 May 1978;

WHEREAS the Abuja Treaty of 3 June 1991 adopted by the Assembly of Heads of State and Government of the Member States of the OAU established the African Economic Community with the aim of inter alia deriving mutual benefit, coordination and integration of policies for the social and economic development of Africa where particularly in civil aviation;

CONSIDERING the Decision taken in Yamoussoukro, Cote D'Ivoire on 14 November 1999, relating to the implementation of the Yamoussoukro Declaration for the liberalization of access to air transport

markets in Africa which was subsequently endorsed by the Assembly of Heads of State and Government of the OAU vide Decision AHG/OAU/AEC/Dec.1 (IV), adopted in Lome, Togo, on 12 July 2000.

RECALLING the Ministerial Decision of the third African Union Conference of Ministers responsible for Air Transport adopted in Addis Ababa Ethiopia on 11 May 2007 and subsequently endorsed by the Assembly of Heads of State and Government in Accra, Ghana on 29 June 2007 entrusting AFCAC with the responsibility of being the Executing Agency for the Yamoussoukro Decision;

CONVINCED of the need for a common civil aviation policy capable of promoting the development of African airlines and enhancing African participation in international air transport;

RECOGNIZING that AFCAC should assist African States in supplementing the work of ICAO;

THEREFORE, We the African States HAVE AGREED to the following provisions:

SECTION I - GENERAL PROVISIONS

Article 1

Definitions

For the purpose of this Constitution the terms and expressions below shall have the following meaning:

‘Abuja Treaty’ means the Treaty Establishing the African Economic Community adopted at Abuja, Nigeria on 3 June 1991 and which entered into force on 12 May 1994;

‘AFCAC’ means the African Civil Aviation Commission as established in 1969 and referred to in Article 2 of this Constitution;

‘AFCAC Region’ shall refer to a geographical region of Africa, as defined by the African Union;

‘African State’ means an African State, member of the African Union or the United Nations;

‘Assembly’ means the Assembly of Heads of State and Government of the African Union;

‘AU’ means the African Union as established by the Constitutive Act of the Union;

‘Bureau’ means the AFCAC Bureau as described in Article 12 of this Constitution;

‘Chairperson’ means the Chairperson of the African Union Commission;

‘Constitution’ means this AFCAC Constitution as adopted by the Meeting of Plenipotentiaries held in Dakar, Senegal on the 16th of December 2009;

‘Executing Agency’ means the Body referred to in Article 9.4 of the Yamoussoukro Decision;

‘Executive Council’ means the Executive Council of Ministers of the African Union;

‘ICAO’ means the International Civil Aviation Organization created pursuant to the Chicago Convention 1944 and which is the international body responsible for the regulation of civil aviation worldwide;

‘Member State’ means an African State which has signed or ratified/ acceded to the AFCAC Constitution;

‘Monitoring Body’ means the Monitoring Body established by Article 9.2 of the Yamoussoukro Decision;

‘NEPAD’ means the AU New Partnership for African Development Programme;

‘Plenary’ means the Assembly of designated representatives of Member States of AFCAC whose Irritations are described in Article 10 of this Constitution;

‘RECS’ means the Regional Economic Communities as recognized by the AU;

‘Secretariat’ means the organ referred to in Article 14 of this Constitution;

‘Secretary General’ means the Secretary General of AFCAC as provided for under Article 14 of this Constitution;

‘Sub-Committee on air transport established under Article 9.1 of the Yamoussoukro Decision’ means the sub-sectoral Committee on air transport, the Body referred to in Article 3 of the Rules of Procedure of the Conference of Ministers of Transport, adopted by the Thirteenth Session of the Executive Council held in Sharm El Sheikh, Egypt, from 24 to 28 June 2008;

‘Yamoussoukro Decision’ means the Decision relating to the Implementation of the Yamoussoukro Declaration concerning the liberalization of access to air Transport markets in Africa done at Yamoussoukro on 14 November 1999.

Article 2

Establishment of AFCAC

There shall continue to be the African Civil Aviation Commission (AFCAC) as established by the 1969 AFCAC Constitution. AFCAC is the Specialized Agency of the African Union responsible for Civil Aviation matters in Africa.

Article 3

Objectives

AFCAC's objectives shall be inter alia:

- a) Coordinate civil aviation matters in Africa and to cooperate with ICAO and all other relevant organizations and other bodies which are involved in the promotion and development of civil aviation in Africa.
- b) Facilitating, coordinating and ensuring the successful implementation of the Yamoussoukro Decision by supervising and managing Africa's liberalized air transport industry.
- c) Formulating and enforcing appropriate rules and regulations that give fair and equal opportunity to all stakeholders and promote fair competition.
- d) Promoting understanding on policy matters between its Member States and States in other parts of the world.
- e) Fostering inter alia the implementation of ICAO Standards and Recommended Practices for the safety, security, environmental protection and regularity of the aviation sector.
- f) Ensuring adherence to and implementation of Decisions of the Executive Council and Assembly.

Article 4

Functions

AFCAC shall carry out the following functions:

- a) undertake studies on technical regulatory and economic developments in air transport, with particular focus on their implications for Africa:

- b) encourage and support Member States to comply with ICAO Standards and Recommended Practices, as well as the regional air navigation plans;
 - c) foster and coordinate programmes for the development of training facilities in Africa and to encourage and support the training and development of personnel in all fields of civil aviation;
 - d) encourage and support the creation of autonomous civil aviation entities;
 - e) develop collective arrangements to secure the necessary resources for the promotion of international civil aviation, particularly those provided within the framework of bilateral and multilateral programmes for technical cooperation to Member States;
 - f) ensure advocacy and defence of common positions of member States at international fora relating to civil aviation;
 - g) ensure seamless and close co-operation with the various RECs as well as those of other African Organisations concerned with civil aviation matters;
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- h) advise Member States on all civil aviation matters;
 - i) examine specific problems which may hinder the development and operation of the African civil aviation industry and, where possible, take corrective and/or preventive actions in coordinating with Member States as required;
 - j) act pursuant to provisions of the Article 9 of the Yamoussoukro Decision to discharge its duties of Executing Agency of Air Transport in Africa;
 - k) develop and harmonize common rules and regulations for the safety, security, environmental protection, fair competition, dispute settlement and consumer protection, amongst others;

- l) increase and coordinate synergies in the fields of search and rescue, salvage and accident investigation;
- m) coordinate the development and implementation of plans in the field of aviation infrastructure;
- n) coordinate the election of African States into the ICAO Council and of African experts into the Air Navigation Commission after receiving the approval of AU;
- o) support and facilitate the appointment of Africans into ICAO, its organs and other international civil aviation bodies; and
- p) perform such other functions as may be conferred upon it by the Executive Council or the Assembly of the African Union to fulfil its objectives.

Article 5

Membership

Membership shall be open to all African States. Each Member State shall enjoy equal rights in terms of participation and representation at AFCAC meetings.

Article 6

Legal Capacity

AFCAC shall enjoy, in the territory of each Member State, legal capacity accorded to legal persons under the national laws of the Member States as may be necessary for the fulfilment of its objectives and the exercise of its functions.

Article 7

Privileges and immunities

AFCAC, its Representatives and Staff shall enjoy in the territory of each Member State, the privileges and immunities stipulated in the 1964 General Convention on the Privileges and Immunities of the OAU/AU.

Article 8

Headquarters

1. The Headquarters of AFCAC is established in Dakar Senegal. The Headquarters may be transferred to another Member State by a decision of the Plenary, which shall be on the recommendation of the Bureau in accordance with the AU Criteria for hosting AU Organs’.
2. The Headquarters shall be governed by a Host Agreement negotiated between the Secretariat and the Host Country and approved by the Plenary, which shall be reviewed periodically to ensure strict compliance and facilitate the smooth functioning of AFCAC.

SECTION II - AFCAC STRUCTURES

Article 9

Organs of AFCAC

The Organs of AFCAC shall be:

- a) The Plenary;
- b) The Bureau; and
- c) The Secretariat.

Article 10

The Plenary

1. The Plenary shall be the supreme organ of AFCAC.
2. The Plenary shall be composed of duly accredited representatives of Member States responsible for Civil Aviation.

3. The Plenary shall meet in:
 - a) Ordinary session: once every three (3) years; and
 - b) Extraordinary session: at the initiative of the Bureau or at the request addressed to the Bureau by a Member State and upon the approval of two-thirds of all Member States.
4. The quorum for the Plenary shall be a simple majority (fifty percent plus one) of Member States.¹
5. Without prejudice to the provisions of Article 21, decisions of the Plenary shall be adopted by consensus failing which by two-thirds majority of Member States present and having the right to vote.
6. The Plenary shall take place at the headquarters unless a Member State invites the Plenary to hold a session in its territory.

Article 11

Functions of the Plenary

The functions of the Plenary shall be to:

- a) issue policy guidelines through resolutions and recommendations;
- b) elect the President and Vice-Presidents to serve as members of the Bureau;
- c) approve the Organizational Structure of AFCAC and appoint the Secretary General upon the recommendation of the Bureau;
- d) approve the work programme, business plan, budget, rules and regulations of AFCAC;
- e) establish committees and working groups, as necessary, to undertake special assignments or tasks on civil aviation in Africa,

faith such functions as may be specified, and appoint their members;

- f) approve such other activities, rules and procedures as deemed appropriate, to meet the objectives of AFCAC;
- g) appoint External Auditors of AFCAC;
- h) consider and take appropriate action on the External Auditors report;
- i) ensure the effective implementation of the Yamoussoukro Decision, principally the liberalization of air transport services;
- j) adopt the financial rules and regulations, accounting and auditing rules and regulations for AFCAC;
- k) submit its tri-annual report on the state of implementation of the Yamoussoukro Decision to the Assembly of Heads of State and Government through the Executive Council;
- l) ~~adopt its rules of procedure, including the establishment of~~ committees as deemed appropriate as well as the Rules of Procedures of the Bureau; and
- m) undertake such other functions as may be requested or conferred upon it by the relevant Organs of the AU, the Monitoring Body and the Sub-Committee of Air Transport.

Article 12

The Bureau

1. The Bureau shall be composed of the President and five (5) Vice-Presidents elected by the Plenary in accordance with the AU geographical representation formula.

2. The Coordinator of the African Group at ICAO Council shall attend meetings of the Bureau in an ex- officio capacity.
 3. The Presidency of AFCAC shall be on rotational basis, each region serving one (1) term of three (3) years.
 4. The Vice-Presidents shall each represent one AU region.
 5. Each Vice-President shall serve a term of three (3) years at a time and may be re-elected only once.
 6. Members of the Bureau shall possess relevant professional experience in the field of civil aviation and participate actively in carrying out AFCAC activities.
 7. Members of the Bureau shall, attend all meetings of the Bureau and perform their responsibilities as assigned by the Bureau, in the interests of AFCAC.
 8. Decisions of the Bureau shall be taken in accordance with its Rules of Procedure.
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9. The quorum required for the Bureau Meetings shall be fixed by the Rules of Procedures of the Bureau.
 10. Any Member State may participate, without a vote, in the consideration by the Bureau of any question which especially affects its interests. No member of the Bureau shall vote in the consideration by the Bureau of a dispute to which that Member State is a party.
 11. The Bureau may determine its own internal organization, arrangements and procedures, including the establishment of committees as may be deemed appropriate.

Article 13

Functions of the Bureau

The functions of the Bureau shall be to:

- a) convene the ordinary and extraordinary plenary sessions, subject to the relevant provisions of Article 10, and determine the provisional agenda;
- b) ensure the implementation of the AFCAC work programmes and other resolutions of the AFCAC Plenary;
- c) supervise and coordinate the activities of the Secretariat and any committee or working group;
- d) prepare its own rules of procedures and submit them to the Plenary for approval;
- e) implement the resolutions, directives and decisions of the Plenary and discharge the duties and obligations which are conferred upon ~~it in the Constitution;~~
- f) select and recommend from a short-list to the Plenary, candidates for the position of Secretary General;
- g) supervise the administrative and financial management of the Secretariat;
- h) submit periodic reports on its activities to the Plenary; and
- i) carry out any other functions that may be assigned to it by the Plenary.

Article 14
The Secretariat

1. The Secretariat shall be headed by a Secretary-General assisted by the necessary and competent Staff for the smooth functioning of AFCAC.
 2. The Secretary General shall be appointed by the Plenary upon the recommendation of the Bureau.
 3. In the appointment of the Secretary General and other Staff, consideration shall be made to ensure competence, qualification, experience, high integrity and geographical distribution of posts.
 4. The Secretary General shall serve in office for a term of three (3) years renewable once only for a further term of three (3) years.
 5. The Secretary-General shall;
 - a) Follow up and ensure the implementation of the resolutions, directives and decisions of the Plenary, Bureau and Monitoring Body, in accordance with the rules and regulations of AFCAC;
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- b) represent AFCAC and defend its interests under the guidance and approval of the Plenary and the Bureau;
 - c) promote the development of the programmes, projects and initiatives of AFCAC;
 - d) prepare and submit proposals concerning the work programmes, business plans, strategic objectives, projects, activities and budgets of AFCAC and ensure their implementation;
 - e) oversee the administrative and financial management of AFCAC by appropriately managing the budgetary and financial resources including collecting the approved revenue from various sources.

- f) prepare financial reports including reports for the past triennial and a budget for the forthcoming triennial to be submitted by Bureau to the Plenary for approval in accordance with AFCAC rules and regulations;
 - g) submit reports on the activities of AFCAC to the Plenary, Bureau and Monitoring Body;
 - h) appoint staff and terminate contracts of appointment in accordance with AFCAC Staff Rules and Regulations;
 - i) prepare and service meetings of the Plenary, Bureau and Committees of AFCAC;
 - j) organize meetings and undertake studies as necessary and maintain relevant records in relation thereto;
 - k) submit to the Bureau and the Monitoring Body annual reports on the operations of AFCAC;
 - l) keep in custody the seal, documents, files and other data relating of relevant to the work of AFCAC; and
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- m) make recommendations to improve AFCAC's operational efficiency.

Article 15

Reports to the Sub-Committee on Air Transport

The Sub-Committee on Air Transport is the Conference of Ministers responsible for air transport matters in Africa, whose mandate shall be to, inter alia, consider and adopt recommendations submitted by AFCAC on all activities concerning the functions of the Executing Agency entrusted to it and other matters requiring political Decisions in accordance with the African Union procedures.

SECTION III - INTERNATIONAL RELATIONS

Article 16

Cooperation with other Organizations

AFCAC shall work in close cooperation with the different AU Organs, RECs, ICAO, United Nations Economic Commission for Africa (UN-ECA) as well as with other governmental and non-governmental international organizations, civil aviation service providers on civil aviation matters of mutual interest.

SECTION IV - FINANCIAL MATTERS

Article 17

Financial Resources

1. The regular budget of AFCAC shall be funded by contributions made by Member States in accordance with the scale of assessment determined by the Plenary;
2. Supplemental budgets of AFCAC shall be made available, where ~~necessary to meet the extra and/ or special budgetary expenditure~~ of AFCAC. The Plenary shall determine the contributions of Member States to the Special budgets of AFCAC; and
3. In addition, AFCAC may receive Grants, Donations and proceeds for its activities as approved by the Bureau.

Article 18

Sanctions

1. Any Member State that fails to honour its financial obligations to the Commission for a period of two (2) years or more shall, as long as it is in such arrears, forfeit the right to note in the Plenary or to present candidates for any elective or other post within AFCAC.

2. Any Member State that remains in sanctions for a period of three (3) years or more shall, in addition to the sanctions referred to in the preceding paragraph, have its nationals deprived of the rights, privileges, benefits and disadvantages usually accorded to Member States.
3. Any violation of any provision of this constitution by a Member State shall result in sanctions as may be determined by the Plenary.

SECTION V – TRANSITIONAL AND FINAL PROVISIONS

Article 19

Signature, Ratification, Accession and Entry into Force

1. This Constitution shall be open to signature, ratification, acceptance and accession by African States in accordance with their respective Constitutional procedure.
2. The instrument of ratification shall be deposited with the Chairperson of the African Union Commission.
3. Any African State acceding to this Constitution after its entry into force shall deposit the instrument of accession with the Chairperson of the Commission.
4. This Constitution shall provisionally enter into force upon signature by fifteen African States and shall definitively enter into force upon ratification by fifteen (15) African States.
5. The Depository shall give notice to AFCAC and any Member State, of the date on which this Constitution enters into force provisionally and definitively.

Article 20*Transitional Arrangements*

Without prejudice to Article 26, a Member State under the 1969 AFCAC Constitution shall continue to maintain its membership of AFCAC until such a time that this Constitution comes into force definitively.

Article 21*Denunciation*

Any denunciation of this Constitution shall be made through appropriate notification to the Chairperson of the AU Commission who, within thirty (30) days, shall advise AFCAC and its Member States accordingly. The denunciation of any State from membership of AFCAC shall become effective one (1) year following the receipt by the Chairperson of the AU Commission of such notification.

Article 22*Amendment and Revision*

1. Any Member State may submit proposals for the amendment or revision of this Constitution.
2. Proposals for amendments or revision shall be submitted to the Chairperson of the AU Commission who shall transmit the same to AFCAC and the Member States within thirty (30) days of receipt thereof.
3. The Plenary shall meet to consider the proposals for amendments or revisions and submit their recommendations to the Executive Council.
4. The Assembly, upon the advice of the Executive Council, shall examine the recommendations within a period of one year following notification of Member States in accordance with the provisions of paragraph 2 of this Article.

5. Amendments or revisions shall be adopted by the Assembly and submitted for ratification by all Member States in accordance with their respective constitutional procedure. The amendments shall enter into force in accordance with the provisions of Article (19).

Article 23

Settlement of Disputes

1. Any dispute arising between two (2) or more Member States on the application or interpretation of this Constitution shall in the first instance, be settled through negotiations.
2. In case the dispute(s) remains unresolved within twenty-one (21) days, either Party may refer the dispute to the Bureau for resolution. The Bureau shall make a decision within sixty (60) days receipt of the referral.
3. In the event the Bureau cannot resolve the dispute or should their decision fail to provide a satisfactory solution to either Party within sixty (60) days, the dispute may be settled by arbitration. The arbitration team shall consist of a panel of African arbitrators appointed by each party. An additional arbitrator shall be appointed by the other arbitrators.
4. The arbitration panel shall adopt its own Rules of Procedure and make an award within six (6) months. The decision of the Panel shall be final and binding on the Parties.
5. Without prejudice to the above provisions, the African Court of Justice and Human Rights may be seized with any dispute regarding the application or interpretation of this Constitution.

Article 24

Working Languages

The working languages of AFCAC shall be those of the AU.

Article 25
Registration

This Constitution shall be registered with ICAO in compliance with Article 83 of the Convention on International Civil Aviation opened for signature at Chicago on 7 December 1944.

Article 26
Abrogation

This Constitution shall abrogate and supersede, as of the date of its entry into force, the AFCAC Constitution adopted at Addis Ababa, Ethiopia on 17 January 1969.

IN WITNESS, WHEREOF WE, the Plenipotentiaries, having been duly authorized, have adopted this Constitution.

DONE at Dakar, Senegal on the 16th day of December 2009, in Arabic, English, French and Portuguese all the texts being equally authentic.

President of AFCAC/ Chairperson
of the Meeting of Plenipotentiaries

Date of *Gazette* notification: 31st July, 2024.

