



**DIPLOMATIC CONFERENCE FOR THE ADOPTION OF
THE DRAFT PROTOCOL TO THE CONVENTION ON
INTERNATIONAL INTERESTS IN MOBILE
EQUIPMENT ON MATTERS SPECIFIC TO
SPACE ASSETS**

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**DRAFT PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE
EQUIPMENT ON MATTERS SPECIFIC TO SPACE ASSETS**

AND

DRAFT FINAL PROVISIONS CAPABLE OF EMBODIMENT IN THE DRAFT PROTOCOL

ANNOTATED BY REFERENCE TO THE

CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT

(prepared by the UNIDROIT Secretariat) ()*

Introductory note

This document has been prepared in the hope that it might facilitate the discussions at the diplomatic Conference in respect of those provisions of the draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets (DCME-SP - Doc. 3) (hereinafter referred to as the *draft Protocol*) and of the draft Final Provisions capable of embodiment in the draft Protocol (DCME-SP - Doc. 5) (hereinafter referred to as the *draft Final Provisions*) making reference to provisions of the Convention on International Interests in Mobile Equipment (DCME-SP - Doc. 4, Appendix) (hereinafter referred to as the *Convention*) or concepts embodied in the Convention. The text of the draft Protocol and that of the draft Final Provisions are set out in the left-hand column, with those provisions of the Convention referred to, or concepts embodied in the Convention referred to in specific provisions of the draft Protocol or the draft Final Provisions set out in the right-hand column.

| Draft Protocol | Convention |
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| THE STATES PARTIES TO THIS PROTOCOL, CONSIDERING it desirable to implement the Convention on International Interests in Mobile Equipment (hereinafter referred to as the <i>Convention</i>) as it relates to space assets, in the | THE STATES PARTIES TO THIS CONVENTION, AWARE of the need to acquire and use mobile equipment of high value or particular economic significance and to facilitate the financing of the acquisition and use of such equipment in an |

(*) The Secretariat would like to express its gratitude to Mr Erik Pellander for his contribution to the preparation of this document.

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| <p>light of the purposes set out in the preamble to the Convention,</p> <p>MINDFUL of the need to adapt the Convention to meet the particular demand for and the utility of space assets and the need to finance their acquisition and use as efficiently as possible,</p> <p>MINDFUL of the benefits to all States from expanded space-based services and financing which the Convention and this Protocol will yield,</p> <p>MINDFUL of the established principles of space law, including those contained in the international space treaties of the United Nations and the instruments of the International Telecommunication Union,</p> <p>MINDFUL of the continuing development of the international commercial space industry and recognising the need for a uniform and predictable regimen governing interests in space assets and in related rights and facilitating asset-based financing of the same,</p> <p>HAVE AGREED upon the following provisions relating to space assets:</p> | <p>efficient manner,</p> <p>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,</p> <p>MINDFUL of the need to ensure that interests in such equipment are recognised and protected universally,</p> <p>DESIRING to provide broad and mutual economic benefits for all interested parties,</p> <p>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,</p> <p>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</p> <p>TAKING INTO CONSIDERATION the objectives and principles enunciated in existing Conventions relating to such equipment</p> <p>HAVE AGREED upon the following provisions:</p> |
| CHAPTER I – SPHERE OF APPLICATION AND GENERAL PROVISIONS | |
| <p style="text-align: center;"><i>Article I – Defined terms</i></p> <p>1. – In this Protocol, except where the context otherwise requires, terms used in it have the meanings set out in the Convention.</p> <p>2. – In this Protocol the following terms are employed with the meanings set out below:</p> <p>(a) “debtor’s rights” means rights to payment or other performance due or to become due to a debtor by any person with respect to a space asset;</p> <p>(b) “guarantee contract” means a contract entered into by a person as a guarantor;</p> <p>(c) “guarantor” means a person who, for the purpose of assuring performance of</p> | |

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| <p>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 standby letter of credit or other form of credit insurance;</p> <p>(d) “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;</p> <p>(e) “licence” means any permit, authorisation, concession or equivalent instrument [in conformity with the applicable law] that is granted or issued by, or pursuant to the authority of, a national or intergovernmental or other international body or authority, when acting in a regulatory capacity, to manufacture, launch, control, use or operate a space asset, or relating to the use of orbital positions or the transmission, emission or reception of electromagnetic signals to and from a space asset;</p> <p>(f) “obligor” means a person from whom payment or other performance of debtor’s rights is due or to become due;</p> <p>(g) “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;</p> <p>(h) [“revenue salvage” means an interest in debtor’s rights which has become vested in the insurer of the related space asset by contract or operation of law upon payment of proceeds following a constructive total loss of the space asset;] ¹</p> <p>[(i)] “rights assignment” means a contract by which the debtor confers on the creditor an interest (including an ownership interest) in or over the whole or part of existing or</p> | |

¹ This provision is in square brackets so as to permit the checking of its drafting once a decision is taken on the text of Article IV(5).

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| <p>future debtor's rights to secure the performance of, or in reduction or discharge of, any existing or future obligation of the debtor to the creditor which under the agreement creating or providing for the international interest is secured by or associated with the space asset to which the agreement relates;</p> <p>[(j)] "rights reassignment" means a contract by which the creditor transfers to the assignee, or an assignee transfers to a subsequent assignee, the whole or part of its rights and interest under a rights assignment;</p> <p>[(k)] "space" means outer space, including the Moon and other celestial bodies; and</p> <p>[(l)] "space asset" means any man-made uniquely identifiable asset in space or designed to be launched into space, and comprising</p> <p>(i) a spacecraft, such as a satellite, space station, space module, space capsule, space vehicle or reusable launch vehicle [in respect of which a registration may be effected in accordance with the regulations], whether or not including a space asset falling within (ii) or (iii) below;</p> <p>(ii) a payload (whether telecommunications, navigation, observation, scientific or otherwise) in respect of which a separate registration may be effected in accordance with the regulations; or</p> <p>(iii) a part of a spacecraft or payload such as a transponder, in respect of which a separate registration may be effected in accordance with the regulations,</p> <p>together with all installed, incorporated or attached accessories, parts and equipment and all data, manuals and records relating thereto; and</p> <p>(m) "title salvage" means title to a space asset which has become vested in the insurer of the space asset by contract or operation of law upon payment of proceeds following a constructive total loss of the space asset].²</p> | |

² This provision is in square brackets so as to permit the checking of its drafting once a decision is taken on the text of Article IV(5).

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| <p>3. – In Article[s] [1(n) and] 43(1) of the Convention and Article XXII of this Protocol, references to a Contracting State on the territory of which an object or space asset is situated shall, as regards a space asset when not on Earth, be treated as references to any of the following:</p> <p>(a) a Contracting State which registers the space asset, or on the registry of which the space asset is carried, for the purposes of:</p> <p>(i) the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, signed at London, Moscow and Washington, D.C. on 27 January 1967;</p> <p>(ii) the Convention on Registration of Objects Launched into Outer Space, signed at New York on 14 January 1975; or</p> <p>(iii) United Nations General Assembly Resolution 1721 (XVI) B of 20 December 1961;</p> <p>(b) the Contracting State which is the State granting a licence to operate the space asset; or</p> <p>(c) the Contracting State on the territory of which a mission operation centre for the space asset is located.</p> | <p><i>Article 1 – Definitions</i></p> <p>(n) “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 object located (as specified in the Protocol), 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 50(1);</p> <p><i>Article 43 - Jurisdiction under Article 13</i></p> <p>1. The courts of a Contracting State chosen by the parties and the courts of the Contracting State on the territory of which the object is situated have jurisdiction to grant relief under Article 13(1)(a), (b), (c) and Article 13(4) in respect of that object.</p> |
| <p><i>Article II – Application of the Convention as regards space assets, debtor's rights and aircraft objects</i></p> <p>1. – The Convention shall apply in relation to space assets, rights assignments and rights reassignments as provided by the terms of this Protocol.</p> <p>2. – The Convention and this Protocol shall be known as the Convention on International Interests in Mobile Equipment as applied to space assets.</p> <p>[3. – Nothing in this Protocol affects the application of the Protocol to the Convention on Matters specific to Aircraft Equipment to an object designed predominantly for use in air space. An object which is designed predominantly for use in</p> | |

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| outer space does not constitute an aircraft object for the purposes of the latter Protocol.] ³ | |
| <p style="text-align: center;"><i>Article III – Return of a space asset</i></p> <p>The return of a space asset from space does not affect an international interest in that asset.</p> | <p style="text-align: center;"><i>Article 2 - The international interest</i></p> <p>1. This Convention provides for the constitution and effects of an international interest in certain categories of mobile equipment and associated rights.</p> <p>2. For the purposes of this Convention, an international interest in mobile equipment is an interest, constituted under Article 7, in a uniquely identifiable object of a category of such objects listed in paragraph 3 and designated in the Protocol:</p> <p style="padding-left: 40px;">(a) granted by the chargor under a security agreement;</p> <p style="padding-left: 40px;">(b) vested in a person who is the conditional seller under a title reservation agreement; or</p> <p style="padding-left: 40px;">(c) vested in a person who is the lessor under a leasing agreement.</p> <p>An interest falling within sub-paragraph (a) does not also fall within sub-paragraph (b) or (c).</p> <p>3. The categories referred to in the preceding paragraphs are:</p> <p style="padding-left: 40px;">(a) airframes, aircraft engines and helicopters;</p> <p style="padding-left: 40px;">(b) railway rolling stock; and</p> <p style="padding-left: 40px;">(c) space assets.</p> <p>4. The applicable law determines whether an interest to which paragraph 2 applies falls within subparagraph (a), (b) or (c) of that paragraph.</p> <p>5. An international interest in an object extends to proceeds of that object.</p> |

³ The text of this provision as originally proposed provided that nothing in this Protocol was to affect the application of the Aircraft Protocol to aircraft objects. However, this raised concerns both in the Drafting Committee of the Committee of governmental experts and in the Committee of governmental experts itself that it might inhibit development of space financing by unintentionally covering objects which, though designed predominantly for use in outer space, could fall within the definition of an airframe or an aircraft engine. The second sentence is intended to meet these concerns.

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| <p><i>Article IV – Application of the Convention to sales and salvage interests</i></p> <p>1. – 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:</p> <p>Articles 3 and 4;</p> <hr/> <p>Article 16(1)(a);</p> | <p><i>Article 3 – Sphere of application</i></p> <p>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.</p> <p>2. The fact that the creditor is situated in a non-Contracting State does not affect the applicability of this Convention.</p> <p><i>Article 4 – Where debtor is situated</i></p> <p>1. For the purposes of Article 3(1), the debtor is situated in any Contracting State:</p> <p>(a) under the law of which it is incorporated or formed;</p> <p>(b) where it has its registered office or statutory seat;</p> <p>(c) where it has its centre of administration; or</p> <p>(d) where it has its place of business.</p> <p>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.</p> <hr/> <p><i>Article 16 – The International Registry</i></p> <p>1. An International Registry shall be established for registrations of:</p> <p>(a) international interests, prospective</p> |

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| <p>_____</p> <p>Article 19(4);</p> <p>_____</p> <p>Article 20(1) (as regards registration of a contract of sale or a prospective sale);</p> <p>_____</p> <p>Article 25(2) (as regards a prospective sale); and</p> <p>_____</p> <p>Article 30.</p> | <p>international interests and registrable non-consensual rights and interests;</p> <p>_____</p> <p><i>Article 19 – Validity and time of registration</i></p> <p>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 7.</p> <p>_____</p> <p><i>Article 20 – Consent to registration</i></p> <p>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.</p> <p>_____</p> <p><i>Article 25 – Discharge of registration</i></p> <p>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.</p> <p>_____</p> <p><i>Article 30 – Effects of insolvency</i></p> <p>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.</p> <p>2. Nothing in this Article impairs the effectiveness of an international interest in the</p> |

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| <p style="text-align: center;">_____</p> <p>2. – The provisions of this Protocol applicable to rights assignments also apply to a transfer to the buyer of a space asset of rights to payment or other performance due or to become due to the seller by any person with respect to the space asset as if references to the debtor and the creditor were references to the seller and the buyer respectively.</p> <p style="text-align: center;">_____</p> <p>3. – 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 XXIII of this Protocol), 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.</p> | <p>insolvency proceedings where that interest is effective under the applicable law.</p> <p>3. Nothing in this Article affects:</p> <p style="padding-left: 40px;">(a) 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</p> <p style="padding-left: 40px;">(b) any rules of procedure relating to the enforcement of rights to property which is under the control or supervision of the insolvency administrator.</p> <p style="text-align: center;">_____</p> <p><i>The following subjects are addressed in the Articles and Chapters of the Convention referred to in Article IV (3) of the draft Protocol:</i></p> <ul style="list-style-type: none"> -Article 1 – Definitions; -Article 5 – Interpretation and applicable law; -CHAPTER IV – THE INTERNATIONAL REGISTRATION SYSTEM; -CHAPTER V – OTHER MATTERS RELATING TO REGISTRATION; -CHAPTER VI – PRIVILEGES AND IMMUNITIES OF THE SUPERVISORY AUTHORITY AND THE REGISTRAR; -CHAPTER VII – LIABILITY OF THE REGISTRAR; -Article 29 – Priority of competing interests; -CHAPTER X – RIGHTS OR INTERESTS SUBJECT TO DECLARATION BY CONTRACTING STATES; -CHAPTER XII – JURISDICTION; |

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| <p style="text-align: center;">_____</p> <p>[4. – For the purposes of this Protocol, the vesting of a space asset by way of title salvage is treated as if it were a sale.]⁴</p> <p>[5. – [Nothing in the Convention or this Protocol affects any rights of an insurer under the applicable law to revenue salvage.][as against the holder of an interest registered or a rights assignment recorded after the time when the salvage vests in the insurer under the applicable law. This paragraph does not affect the application of Article 9(5) of the Convention in relation to ownership or any other interest derived from or passing to a chargee whose interest was registered or an assignee whose interest was recorded prior to the time of such vesting.]]</p> | <p>-CHAPTER XIII – RELATIONSHIP WITH OTHER CONVENTIONS;</p> <p>-CHAPTER XIV – FINAL PROVISIONS</p> <p style="text-align: center;">_____</p> |
| <p><i>Article V – Formalities, effects and registration of contracts of sale</i></p> <p>1. – For the purposes of this Protocol, a contract of sale is one which:</p> <p style="padding-left: 40px;">(a) is in writing;</p> <p style="padding-left: 40px;">(b) relates to a space asset of which the seller has power to dispose; and</p> <p style="padding-left: 40px;">(c) enables the space asset to be identified in conformity with this Protocol.</p> <p>2. – A contract of sale transfers the interest of the seller in the space asset to the buyer according to its terms.</p> <p>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.</p> | |

⁴ This provision is in square brackets so as to permit the checking of its drafting once a decision is taken on the text of Article IV(5).

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| <p style="text-align: center;"><i>Article VI – Representative capacities</i></p> <p>A person may, in relation to a space asset, enter into an agreement or a contract of sale, effect a registration as defined by Article 16(3) of the Convention and assert rights and interests under the Convention in an agency, trust or representative capacity.</p> | <p style="text-align: center;"><i>Article 16 – The International Registry</i></p> <p>3. For the purposes of this Chapter and Chapter V, the term “registration” includes, where appropriate, an amendment, extension or discharge of a registration.</p> |
| <p style="text-align: center;"><i>Article VII – Identification of space assets</i></p> <p>1. – For the purposes of Article 7(c) of the Convention and Article V of this Protocol, a description of a space asset is sufficient to identify the space asset if it contains:</p> <ul style="list-style-type: none"> (a) a description of the space asset by item; (b) a description of the space asset by type; (c) a statement that the agreement covers all present and future space assets; or (d) a statement that the agreement covers all present and future space assets except for specified items or types. <p>2. – For the purposes of Article 7 of the Convention, an interest in a future space asset identified in accordance with the preceding paragraph shall be constituted as an international interest as soon as the chargor, conditional seller or lessor acquires the power to dispose of the space asset, without the need for any new act of transfer.</p> | <p style="text-align: center;"><i>Article 7 – Formal requirements</i></p> <p>An interest is constituted as an international interest under this Convention where the agreement creating or providing for the interest:</p> <ul style="list-style-type: none"> (a) is in writing; (b) relates to an object of which the chargor, conditional seller or lessor has power to dispose; (c) enables the object to be identified in conformity with the Protocol; 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. |
| <p style="text-align: center;"><i>Article VIII – Choice of law</i></p> <p>1. – This Article applies unless a Contracting State has made a declaration pursuant to Article XL(1) of this Protocol.</p> <p>2. – The parties to an agreement, a contract of sale, a rights assignment or rights reassignment 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.</p> | |

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| <p>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.</p> | |
| <p><i>Article IX – Formal requirements for rights assignment</i></p> <p>A transfer of debtor’s rights is constituted as a rights assignment where it is in writing and enables:</p> <p>(a) the debtor's rights the subject of the rights assignment to be identified;</p> <p>(b) the space asset to which those rights relate to be identified; and</p> <p>(c) in the case of a rights assignment by way of security, the obligations secured by the agreement to be determined, but without the need to state a sum or maximum sum secured.</p> | |
| <p><i>Article X – Effects of rights assignment</i></p> <p>1. – A rights assignment made in conformity with Article IX transfers to the creditor the debtor’s rights the subject of the rights assignment to the extent permitted by the applicable law.</p> <p>2. – Subject to paragraph 3, the applicable law shall determine the defences and rights of set-off available to the obligor against the creditor.</p> <p>3. – The obligor 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 creditor.</p> | |
| <p><i>Article XI – Assignment of future rights</i></p> <p>A provision in a rights assignment by which future debtor’s rights are assigned operates to confer on the creditor an interest in the assigned rights when they come into existence without the need for any</p> | |

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| new act of transfer. | |
| <p data-bbox="150 456 778 546"><i>Article XII – Recording of rights assignment or acquisition by subrogation as part of registration of international interest</i></p> <p data-bbox="150 584 778 1059">1. – The holder of an international interest or prospective international interest in a space asset who has acquired an interest in or over debtor's rights under a rights assignment or by subrogation may, when registering the international interest or prospective international interest or subsequently by amendment to such registration, record the rights assignment or acquisition by subrogation as part of the registration. Such record may identify the rights so assigned or acquired either specifically or by a statement that the debtor has assigned, or the holder of the international interest or prospective international interest has acquired, all or some of the debtor's rights, without further specification.</p> <hr data-bbox="293 1115 632 1124"/> <p data-bbox="150 1160 778 1283">2. – Articles 18, 19, 20(1) – (4), 25(1), (2) and (4) and 30 of the Convention apply in relation to a record made in accordance with the preceding paragraph as if:</p> <p data-bbox="150 1319 778 1379">(a) references to an international interest were references to a rights assignment;</p> <p data-bbox="150 1415 778 1505">(b) references to registration were references to the recording of the rights assignment; and</p> <p data-bbox="150 1541 778 1601">(c) references to the debtor were references to the obligor.</p> | <hr data-bbox="948 1115 1286 1124"/> <p data-bbox="879 1160 1353 1189"><i>Article 18 – Registration requirements</i></p> <p data-bbox="804 1225 1433 1314">1. The Protocol and regulations shall specify the requirements, including the criteria for the identification of the object:</p> <p data-bbox="804 1350 1433 1473">(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 20);</p> <p data-bbox="804 1509 1433 1570">(b) for making searches and issuing search certificates, and, subject thereto;</p> <p data-bbox="804 1606 1433 1729">(c) for ensuring the confidentiality of information and documents of the International Registry other than information and documents relating to a registration.</p> <p data-bbox="804 1765 1433 1854">2. The Registrar shall not be under a duty to enquire whether a consent to registration under Article 20 has in fact been given or is valid.</p> <p data-bbox="804 1890 1433 2076">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.</p> |

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| | <p>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.</p> <p>5. The Protocol may provide that a Contracting State may designate an entity or entities in its territory as the entry point or entry points through which the information required for registration shall or may be transmitted to the International Registry. 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.</p> <p style="text-align: center;"><i>Article 19 – Validity and time of registration</i></p> <p>1. A registration shall be valid only if made in conformity with Article 20.</p> <p>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.</p> <p>3. A registration shall be searchable for the purposes of the preceding paragraph at the time when:</p> <p style="padding-left: 40px;">(a) the International Registry has assigned to it a sequentially ordered file number; and</p> <p style="padding-left: 40px;">(b) the registration information, including the file number, is stored in durable form and may be accessed at the International Registry.</p> <p>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 7.</p> <p>5. The preceding paragraph applies with necessary modifications to the registration of a prospective assignment of an international interest.</p> <p>6. A registration shall be searchable in the International Registry data base according to the</p> |

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| | <p>criteria prescribed by the Protocol.</p> <p style="text-align: center;"><i>Article 20 – Consent to registration</i></p> <p>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.</p> <p>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.</p> <p>3. A registration may be discharged by or with the consent in writing of the party in whose favour it was made.</p> <p>4. The acquisition of an international interest by legal or contractual subrogation may be registered by the subrogee.</p> <p style="text-align: center;"><i>Article 25 – Discharge of registration</i></p> <p>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.</p> <p>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.</p> <p>...</p> <p>4. Where a registration ought not to have been made or is incorrect, the person in whose</p> |

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| <p>3. – A search certificate issued under Article 22 of the Convention shall include the particulars recorded.</p> | <p>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.</p> <p style="text-align: center;"><i>Article 30 – Effects of insolvency</i></p> <p>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.</p> <p>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.</p> <p>3. Nothing in this Article affects:</p> <p style="padding-left: 40px;">(a) 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</p> <p style="padding-left: 40px;">(b) any rules of procedure relating to the enforcement of rights to property which is under the control or supervision of the insolvency administrator.</p> <p style="text-align: center;"><i>Article 22 – Searches</i></p> <p>1. Any person may, in the manner prescribed by the Protocol and regulations, make or request a search of the International Registry by electronic means concerning interests or prospective international interests registered therein.</p> <p>2. Upon receipt of a request therefor, the Registrar, in the manner prescribed by the Protocol and regulations, shall issue a registry search certificate by electronic means with respect to any object:</p> <p style="padding-left: 40px;">(a) stating all registered information relating thereto, together with a statement indicating the date and time of registration of such information; or</p> <p style="padding-left: 40px;">(b) stating that there is no information in the International Registry relating thereto.</p> |

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| <p style="text-align: center;">_____</p> <p>4. – Where a rights assignment has been recorded as part of the registration of an international interest which is subsequently transferred in accordance with Articles 31 and 32 of the Convention, the transferee of the international interest acquires:</p> <p style="padding-left: 40px;">(a) all the rights of the creditor under the rights assignment; and</p> <p style="padding-left: 40px;">(b) the right to be shown in the record as assignee under the rights assignment.</p> | <p>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.</p> <p style="text-align: center;">_____</p> <p style="text-align: center;"><i>Article 31 – Effects of assignment</i></p> <p>1. Except as otherwise agreed by the parties, an assignment of associated rights made in conformity with Article 32 also transfers to the assignee:</p> <p style="padding-left: 40px;">(a) the related international interest; and</p> <p style="padding-left: 40px;">(b) all the interests and priorities of the assignor under this Convention.</p> <p>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.</p> <p>3. Subject to paragraph 4, the applicable law shall determine the defences and rights of set-off available to the debtor against the assignee.</p> <p>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.</p> <p>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.</p> <p style="text-align: center;"><i>Article 32 – Formal requirements of assignment</i></p> <p>1. An assignment of associated rights transfers the related international interest only if it:</p> |

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| <p style="text-align: center;">_____</p> <p>5. – Discharge of the registration of an international interest also discharges any record forming part of that registration under paragraph 1.</p> | <p>(a) is in writing;</p> <p>(b) enables the associated rights to be identified under the contract from which they arise; and</p> <p>(c) in the case of an assignment by way of security, enables the obligations secured by the assignment to be determined in accordance with the Protocol but without the need to state a sum or maximum sum secured.</p> <p>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 also are assigned.</p> <p>3. This Convention does not apply to an assignment of associated rights which is not effective to transfer the related international interest.</p> <p style="text-align: center;">_____</p> |
| <p><i>Article XIII – Priority of recorded rights assignment</i></p> <p>1. – Subject to paragraph 2, a recorded rights assignment has priority over any other transfer of debtor’s rights (whether or not a rights assignment) except a rights assignment previously recorded.</p> <p>2. – Where a rights assignment is recorded in the registration of a prospective international interest it shall be treated as unrecorded unless and until the prospective international interest becomes an international interest, in which event the rights assignment has priority as from the time it was recorded.</p> | |
| <p><i>Article XIV – Obligor's duty to creditor</i></p> <p>1. – To the extent that the debtor's rights have been assigned to the creditor under a rights assignment, the obligor is bound by the rights assignment and has a duty to make payment or give other performance to the creditor,</p> | |

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| <p>if and only if:</p> <p style="padding-left: 40px;">(a) the obligor has been given notice of the rights assignment in writing by or with the authority of the debtor; and</p> <p style="padding-left: 40px;">(b) the notice identifies the debtor's rights.</p> <p>2. – For the purposes of the preceding paragraph, a notice given by the creditor after the debtor defaults in performance of any obligation secured by a rights assignment is given with the authority of the debtor.</p> <p>3. – Irrespective of any other ground on which payment or performance by the obligor discharges the obligor from liability, payment or performance shall be effective for this purpose if made in accordance with paragraph 1.</p> <p>4. – Nothing in this Article shall affect the priority of competing rights assignments.</p> | |
| <p style="text-align: center;"><i>Article XV – Rights reassignment</i></p> <p>1. – Articles IX to XIV of this Protocol apply to a rights reassignment by the creditor or a subsequent assignee as if references to the creditor or holder were references to the assignee or subsequent assignee.</p> <p>2. – A rights reassignment relating to an international interest in a space asset may be recorded only as part of the registration of the assignment of the international interest to the person to whom the rights reassignment was made.</p> | |
| <p style="text-align: center;"><i>Article XVI – Derogation</i></p> <p>The parties may, by agreement in writing, exclude the application of Article XXI and, in their relations with each other, derogate from or vary the effect of any of the provisions of this Protocol except Article XVII(2) [and (3)].</p> | |

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| CHAPTER II – DEFAULT REMEDIES, PRIORITIES AND ASSIGNMENTS | |
| <p data-bbox="183 459 746 519"><i>Article XVII – Modification of default remedies provisions as regards space assets</i></p> <p data-bbox="150 555 780 840">1. – Article 8(3) of the Convention shall not apply to space assets. Any remedy given by the Convention in relation to a space asset 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.</p> <hr data-bbox="295 862 635 869"/> <p data-bbox="150 907 780 1160">2. – 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.</p> <hr data-bbox="295 1310 635 1317"/> <p data-bbox="150 1355 320 1384">[Alternative A</p> <p data-bbox="150 1417 780 1478">3. – No additional provision should be included in this Protocol on this subject.]</p> <p data-bbox="150 1512 320 1541">[Alternative B</p> <p data-bbox="150 1574 780 1955">3. – In the absence of an agreement among two or more parties with interests governed by this Protocol with respect to physically linked space assets, and without prejudice to the priority and related provisions of the Convention and this Protocol, if the exercise of a remedy provided for under this Protocol by a creditor of one of the physically linked space assets will cause physical damage to, or render inoperable, another physically linked space asset, the applicable law shall determine whether the creditor may proceed with the exercise of such remedy.]</p> <p data-bbox="150 1989 320 2018">[Alternative C</p> <p data-bbox="245 2051 780 2080">3. – In the absence of an agreement</p> | <p data-bbox="917 459 1321 488"><i>Article 8 – Remedies of chargee</i></p> <p data-bbox="804 521 1441 752">3. Any remedy set out in sub-paragraph (a), (b) or (c) of paragraph 1 or by Article 13 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 security agreement except where such a provision is manifestly unreasonable.</p> <hr data-bbox="949 862 1289 869"/> <p data-bbox="804 907 1441 1019">4. A chargee proposing to sell or grant a lease of an object under paragraph 1 shall give reasonable prior notice in writing of the proposed sale or lease to:</p> <p data-bbox="804 1064 1441 1124">(a) interested persons specified in Article 1(m)(i) and (ii); and</p> <p data-bbox="804 1153 1441 1265">(b) interested persons specified in Article 1(m)(iii) who have given notice of their rights to the chargee within a reasonable time prior to the sale or lease.</p> <hr data-bbox="949 1310 1289 1317"/> |

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| <p>among two or more parties with interests governed by this Protocol with respect to physically linked space assets, and without prejudice to the priority and related provisions of the Convention and this Protocol, if the exercise of a remedy provided for under this Protocol by a creditor of one of the physically linked space assets will cause physical damage to, or render inoperable, another physically linked space asset, such creditor exercising such remedy shall compensate for the damage caused to the holder of the relevant interests in the physically linked space asset.]</p> | |
| <p><i>Article XVIII – Default remedies as regards rights assignments and rights reassignments</i></p> <p>1. – In the event of default by the debtor under a rights assignment by way of security, Articles 8, 9 and 11 to 14 of the Convention apply in the relations between the debtor and the creditor (and in relation to debtor’s rights apply in so far as those provisions are capable of application to intangible property) as if references:</p> <p>(a) to the secured obligations and the security interest were references to the obligations secured by the rights assignment and the security interest created by that assignment;</p> <p>(b) to the object were references to the debtor’s rights.</p> | <p><i>Article 8 – Remedies of chargee</i></p> <p>1. In the event of default as provided in Article 11, 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 54, exercise any one or more of the following remedies:</p> <p>(a) take possession or control of any object charged to it;</p> <p>(b) sell or grant a lease of any such object;</p> <p>(c) collect or receive any income or profits arising from the management or use of any such object.</p> <p>2. The chargee may alternatively apply for a court order authorising or directing any of the acts referred to in the preceding paragraph.</p> <p>3. Any remedy set out in sub-paragraph (a), (b) or (c) of paragraph 1 or by Article 13 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 security agreement except where such a provision is manifestly unreasonable.</p> <p>4. A chargee proposing to sell or grant a lease of an object under paragraph 1 shall give reasonable prior notice in writing of the proposed sale or lease to:</p> <p>(a) interested persons specified in Article 1(m)(i) and (ii); and</p> |

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| | <p>(b) interested persons specified in Article 1(m)(iii) who have given notice of their rights to the chargee within a reasonable time prior to the sale or lease.</p> <p>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.</p> <p>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.</p> <p style="text-align: center;"><i>Article 9 – Vesting of object in satisfaction; redemption</i></p> <p>1. At any time after default as provided in Article 11, the chargee and all the interested persons may agree that ownership of (or any other interest of the chargor in) any object covered by the security interest shall vest in the chargee in or towards satisfaction of the secured obligations.</p> <p>2. The court may on the application of the chargee order that ownership of (or any other interest of the chargor in) any object covered by the security interest shall vest in the chargee in or towards satisfaction of the secured obligations.</p> <p>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 object after taking account of any payment to be made by the chargee to any of the interested persons.</p> <p>4. At any time after default as provided in Article 11 and before sale of the charged 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 8(1)(b) or ordered under Article 8(2). Where, after such default, the</p> |

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| | <p>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.</p> <p>5. Ownership or any other interest of the chargor passing on a sale under Article 8(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 29.</p> <p style="text-align: center;"><i>Article 11 – Meaning of default</i></p> <p>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 8 to 10 and 13.</p> <p>2. Where the debtor and the creditor have not so agreed, "default" for the purposes of Articles 8 to 10 and 13 means a default which substantially deprives the creditor of what it is entitled to expect under the agreement.</p> <p style="text-align: center;"><i>Article 12 – Additional remedies</i></p> <p>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 15.</p> <p style="text-align: center;"><i>Article 13 – Relief pending final determination</i></p> <p>1. Subject to any declaration that it may make under Article 55, 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:</p> <ul style="list-style-type: none"> (a) preservation of the object and its value; (b) possession, control or custody of the object; (c) immobilisation of the object; and |

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| <p style="text-align: center;">_____</p> <p>2. – In the event of default by the assignor under a rights reassignment by way of security, the preceding paragraph applies as if references to the assignment were references to the reassignment.</p> | <p>(d) lease or, except where covered by sub-paragraphs (a) to (c), management of the object and the income therefrom.</p> <p>2. In making any order under the preceding paragraph, the court may impose such terms as it considers necessary to protect the interested persons in the event that the creditor:</p> <p>(a) in implementing any order granting such relief, fails to perform any of its obligations to the debtor under this Convention or the Protocol; or</p> <p>(b) fails to establish its claim, wholly or in part, on the final determination of that claim.</p> <p>3. Before making any order under paragraph 1, the court may require notice of the request to be given to any of the interested persons.</p> <p>4. Nothing in this Article affects the application of Article 8(3) or limits the availability of forms of interim relief other than those set out in paragraph 1.</p> <p style="text-align: center;"><i>Article 14 – Procedural requirements</i></p> <p>Subject to Article 54(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.</p> <p style="text-align: center;">_____</p> |
| <p style="text-align: center;"><i>Article XIX – Placement of data and materials</i></p> <p>The parties to an agreement may specifically agree for the placement of command codes and related data and materials with another person in order to afford the creditor the opportunity to take possession of, establish control over or operate the space asset.</p> | |

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| <p><i>Article XX – Modification of provisions regarding relief pending final determination</i></p> <p>1. – This Article applies only where a Contracting State has made a declaration to that effect under Article XL(3) of this Protocol and to the extent stated in such declaration.</p> <p>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.</p> <p>3. – Article 13(1) of the Convention applies with the following being added immediately after sub-paragraph (d):</p> <p>“(e) if at any time the debtor and the creditor specifically agree, sale and application of proceeds therefrom”,</p> <p>and Article 43(2) applies with the substitution of</p> <p>“Article 13” for the words “Article 13(1)(d) or other interim relief by virtue of Article 13(4)”.</p> <p>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.</p> <p>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.</p> | <p><i>Article 13 – Relief pending final determination</i></p> <p>1. Subject to any declaration that it may make under Article 55, 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:</p> <p>(a) preservation of the object and its value;</p> <p>(b) possession, control or custody of the object;</p> <p>(c) immobilisation of the object; and</p> <p>(d) lease or, except where covered by sub-paragraphs (a) to (c), management of the object and the income therefrom.</p> <p>2. In making any order under the preceding paragraph, the court may impose such terms as it considers necessary to protect the interested persons in the event that the creditor:</p> <p>(a) in implementing any order granting such relief, fails to perform any of its obligations to the debtor under this Convention or the Protocol; or</p> <p>(b) fails to establish its claim, wholly or in part, on the final determination of that claim.</p> <p>3. Before making any order under paragraph 1, the court may require notice of the request to be given to any of the interested persons.</p> <p>4. Nothing in this Article affects the application of Article 8(3) or limits the availability of forms of interim relief other than those set out in paragraph 1.</p> <p><i>Article 29 – Priority of competing interests</i></p> <p>1. A registered interest has priority over any other interest subsequently registered and over an unregistered interest.</p> <p>2. The priority of the first-mentioned interest</p> |

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| | <p>under the preceding paragraph applies:</p> <p>(a) even if the first-mentioned interest was acquired or registered with actual knowledge of the other interest; and</p> <p>(b) even as regards value given by the holder of the first-mentioned interest with such knowledge.</p> <p>3. The buyer of an object acquires its interest in it:</p> <p>(a) subject to an interest registered at the time of its acquisition of that interest; and</p> <p>(b) free from an unregistered interest even if it has actual knowledge of such an interest.</p> <p>4. The conditional buyer or lessee acquires its interest in or right over that object:</p> <p>(a) subject to an interest registered prior to the registration of the international interest held by its conditional seller or lessor; and</p> <p>(b) free from an interest not so registered at that time even if it has actual knowledge of that interest.</p> <p>5. 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.</p> <p>6. Any priority given by this Article to an interest in an object extends to proceeds.</p> <p>7. This Convention:</p> <p>(a) does not affect the rights of a person in an item, other than an object, held prior to its installation on an object if under the applicable law those rights continue to exist after the installation; and</p> <p>(b) does not prevent the creation of rights in an item, other than an object, which has previously been installed on an object where under the applicable law those rights are created.</p> |

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| | <p style="text-align: center;"><i>Article 43 – Jurisdiction under Article 13</i></p> <p>2. Jurisdiction to grant relief under Article 13(1)(d) or other interim relief by virtue of Article 13(4) may be exercised either:</p> <p style="padding-left: 40px;">(a) by the courts chosen by the parties; or</p> <p style="padding-left: 40px;">(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.</p> |
| <p style="text-align: center;"><i>Article XXI – Remedies on insolvency</i></p> <p>1. – This Article applies only where a Contracting State that is the primary insolvency jurisdiction has made a declaration pursuant to Article XL(4) of this Protocol.</p> <p><i>Alternative A</i></p> <p>2. – Upon the occurrence of an insolvency-related event, the insolvency administrator or the debtor, as applicable, shall, subject to paragraph 8 and to Article XXVI(2) of this Protocol, give possession of or control over the space asset to the creditor no later than the earlier of:</p> <p style="padding-left: 40px;">(a) the end of the waiting period; and</p> <p style="padding-left: 40px;">(b) the date on which the creditor would be entitled to possession of or control over the space asset if this Article did not apply.</p> <p>3. – Upon the occurrence of an insolvency-related event, the insolvency administrator or the debtor, as applicable, shall, subject to paragraph 8 and to Article XXVI (2) of this Protocol, give possession of or control over the debtor's rights covered by a rights assignment to the creditor, no later than the earlier of ⁵:</p> | |

⁵ It was agreed by the Drafting Committee of the Committee of governmental experts that the future Official Commentary should make it clear that, if the creditor was already in possession of or had control of the debtor's rights, then there would be no need to rely on this provision.

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| <p>(a) the end of the waiting period; and</p> <p>(b) the date on which the creditor would be entitled to possession of or control over the debtor's rights covered by the rights assignment.</p> <p>4. – 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.</p> <p>5. – References in this Article to the "insolvency administrator" shall be to that person in its official, not its personal, capacity.</p> <p>6. – Unless and until the creditor is given possession of or control over the space asset under paragraph 2 or the debtor's rights under paragraph 3:</p> <p>(a) the insolvency administrator or the debtor, as applicable, shall preserve the space asset and maintain it and its value in accordance with the agreement; and</p> <p>(b) the creditor shall be entitled to apply for any other forms of interim relief available under the applicable law.</p> <p>7. – Sub-paragraph (a) of the preceding paragraph shall not preclude the use of the space asset under arrangements designed to preserve the space asset and maintain it and its value.</p> <p>8. – The insolvency administrator or the debtor, as applicable, may retain possession of and control over the space asset and the debtor's rights covered by a rights assignment where by the time specified in paragraph 2 or paragraph 3 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.</p> <p>9. – No exercise of remedies permitted by the Convention or this Protocol may be prevented or delayed after the date specified in paragraph 2 or paragraph 3.</p> | |

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| <p>10. – No obligations of the debtor under the agreement may be modified without the consent of the creditor.</p> <p>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.</p> <hr/> <p>12. – No rights or interests, except for non-consensual rights or interests of a category covered by a declaration pursuant to Article 39(1) of the Convention, shall have priority in insolvency proceedings over registered interests. This provision shall not derogate from the provisions of Article XXVI(2) of this Protocol.</p> <hr/> <p>13. – The Convention as modified by Article XVII of this Protocol shall apply to the exercise of any remedies under this Article.</p> <p><i>Alternative B</i></p> <p>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 XL(4) of this Protocol whether it will:</p> <p>(a) cure all defaults other than a default constituted by the opening of insolvency</p> | <hr/> <p><i>Article 39 – Rights having priority without registration</i></p> <p>1. A Contracting State may at any time, in a declaration deposited with the Depository of the Protocol declare, generally or specifically:</p> <p>(a) those categories of non-consensual right or interest (other than a right or interest to which Article 40 applies) which under that State’s law have priority over an interest in an 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</p> <p>(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 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 object.</p> <hr/> |

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| <p>proceedings and agree to perform all future obligations, under the agreement and related transaction documents; or</p> <p>(b) give the creditor the opportunity to take possession of or control and operation over the space asset, in accordance with the applicable law.</p> <p>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.</p> <p>4. – The creditor shall provide evidence of its claims and proof that its international interest has been registered.</p> <p>5. – If the insolvency administrator or the debtor, as applicable, does not give notice in conformity with paragraph 2, or when it has declared that it will give the creditor the opportunity to take possession of or control and operation over the space asset but fails to do so, the court may permit the creditor to take possession of or control and operation over the space asset upon such terms as the court may order and may require the taking of any additional step or the provision of any additional guarantee.</p> <p>6. – The space asset shall not be sold pending a decision by a court regarding the claim and the international interest.</p> | |
| <p><i>Article XXII – Insolvency assistance</i></p> <p>1. – This Article applies only where a Contracting State has made a declaration pursuant to Article XL(1) of this Protocol.</p> <p>2. – The courts of a Contracting State: (i) in which the space asset is situated; (ii) from which the space asset may be controlled; (iii) in which the debtor is located; (iv) in which the space asset is registered; (v) which has granted a licence in respect of the space asset; or (vi) otherwise having a close connection with the space asset, 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</p> | |

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| Article XXI of this Protocol. | |
| <p><i>Article XXIII – Modification of priority provisions</i></p> <p>1. – The buyer of a space asset under a registered sale acquires its interest in that asset free from an interest subsequently registered and from an unregistered interest, even if the buyer has actual knowledge of the unregistered interest.</p> <p>2. – The buyer of a space asset under a registered sale acquires its interest in that asset subject to an interest previously registered.</p> <p>3. The docking of one space asset with another in outer space does not affect ownership, rights or an international interest in those assets.</p> <p>4. Ownership of or another right or interest in a space asset shall not be affected by its installation on or removal from another space asset.</p> | |
| <p><i>Article XXIV – Modification of assignment provisions</i></p> <p>Article 33(1) of the Convention applies with the following being added immediately after subparagraph (b):</p> <p>“and (c) the debtor has consented in writing, whether or not the consent is given in advance of the assignment or identifies the assignee.”</p> | <p><i>Article 33 – Debtor’s duty to assignee</i></p> <p>1. To the extent that associated rights and the related international interest have been transferred in accordance with Articles 31 and 32, 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:</p> <p>(a) the debtor has been given notice of the assignment in writing by or with the authority of the assignor; and</p> <p>(b) the notice identifies the associated rights.</p> |
| <p><i>Article XXV – Debtor provisions</i></p> <p>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 space asset in accordance with the agreement as against:</p> <p>(a) its creditor and the holder of any interest from which the debtor takes free</p> | <p><i>Article 11 – Meaning of default</i></p> <p>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 8 to 10 and 13.</p> <p>2. Where the debtor and the creditor have not so agreed, “default” for the purposes of Articles 8</p> |

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| <p>pursuant to Article 29(4)(b) of the Convention or, in the capacity of buyer, Article XXIII(1) of this Protocol, unless and to the extent that the debtor has otherwise agreed; and</p> <p>(b) the holder of any interest to which the debtor's right or interest is subject pursuant to Article 29(4)(a) of the Convention or, in the capacity of buyer, Article XXIII(2) of this Protocol, but only to the extent, if any, that such holder has agreed.</p> <hr/> <p>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 space assets.</p> | <p>to 10 and 13 means a default which substantially deprives the creditor of what it is entitled to expect under the agreement.</p> <p><i>Article 29 – Priority of competing interests</i></p> <p>4. The conditional buyer or lessee acquires its interest in or right over that object:</p> <p>(a) subject to an interest registered prior to the registration of the international interest held by its conditional seller or lessor; and</p> <p>(b) free from an interest not so registered at that time even if it has actual knowledge of that interest.</p> <hr/> |
| <p><i>Article XXVI – Limitations on remedies</i></p> <p>1. – This Article applies only where a Contracting State has made a declaration pursuant to Article XL(1) of this Protocol.</p> <p>2. – A Contracting State, in accordance with its laws and regulations, may restrict or attach conditions to the exercise of the remedies provided in Chapter III of the Convention and Chapter II of this Protocol, including the placement of command codes and related data and materials pursuant to Article XIX, where the exercise of such remedies would involve or require the transfer of controlled goods, technology, data or services, or would involve the transfer or assignment of a licence, or the grant of a new licence.</p> <p><i>[Alternative text</i></p> <p>2. - Nothing in the Convention and this Protocol limits the ability of a Contracting State, in accordance with its laws and regulations, to restrict or attach conditions:</p> <p>(a) to the constitution of an international interest or a rights assignment, for reasons of national security, international peace and security, or in order to regulate controlled</p> | |

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| <p>goods, and</p> <p>(b) to the exercise of the remedies provided in Chapter III of the Convention and Chapter II of this Protocol, including to the placement of command codes and related data and materials pursuant to Article XIX, for reasons of national security, international peace and security or where the exercise of such remedies would involve or require the transfer of controlled goods, technology, data or services, or would involve the transfer or assignment of a licence, or the grant of a new licence.]</p> <p>3. – In this Article, “controlled” means that the transfer of the goods, technology, data or services is subject to governmental restrictions.</p> | |
| <p><i>Article XXVII – Limitations on remedies in respect of public service</i></p> <p>1. – Where the debtor or an entity controlled by the debtor and a public services provider enter into a contract that provides for the use of a space asset to provide services that are needed for the provision of a public service in a Contracting State, the parties and the Contracting State may agree that the public services provider may register a public service notice.</p> <p>2. – For the purposes of this Article:</p> <p>(a) “public service notice” means a notice in the International Registry describing, in accordance with the regulations, the services which under the contract are intended to support the provision of a public service recognised as such under the laws of the relevant Contracting State;</p> <p>(b) “public services provider” means an entity of a Contracting State, another entity situated in that Contracting State and designated by the Contracting State as a provider of a public service or an entity recognised as a provider of a public service under the laws of a Contracting State.</p> <p>3. – A creditor holding an international interest in a space asset that is the subject of a public service notice may not, in the event of default, exercise any of the remedies provided in Chapter III of the Convention and Chapter II of</p> | |

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| <p>this Protocol that would make the space asset unavailable for the provision of the relevant public service prior to the expiration of a period of six months from the date of registration by the creditor of a notice in the International Registry that the creditor may exercise any such remedies if the debtor does not cure its default within that period.</p> <p>4. – The creditor shall promptly notify the debtor and the public services provider of the date of registration of its notice under the preceding paragraph and of the date of expiry of the period referred to therein.</p> <p>5. – During the period referred to in paragraph 3:</p> <p>(a) the creditor, the debtor and the public services provider shall co-operate in good faith with a view to finding a commercially reasonable solution permitting the continuation of the public service; and, as appropriate,</p> <p>(b) the regulatory authority of a Contracting State that issued a licence required by the debtor to operate the space asset that is the subject of a public service notice shall give the public services provider the opportunity to participate in any proceedings in which the debtor may participate in that Contracting State, with a view to the appointment of another operator under a new licence to be issued by that regulatory authority.</p> <p>6. – Notwithstanding paragraphs 3 and 4, the creditor is free to exercise any of the remedies provided in Chapter III of the Convention and Chapter II of this Protocol if, at any time during the period referred to in paragraph 3, the public services provider fails to perform its duties under the contract referred to in paragraph 1.</p> <p>7. – The limitation on the remedies of the creditor provided for in paragraph 3 shall not apply in respect of an international interest registered prior to the public service notice, unless otherwise agreed by the parties.</p> | |

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| CHAPTER III – REGISTRY PROVISIONS RELATING TO INTERNATIONAL INTERESTS IN SPACE ASSETS | |
| <p style="text-align: center;"><i>Article XXVIII – The Supervisory Authority</i></p> <p>1. – The Supervisory Authority shall be designated at, or pursuant to a resolution of, the Diplomatic Conference to Adopt a Space Assets Protocol to the Cape Town Convention, provided that such Supervisory Authority is able and willing to act in such capacity.</p> <p>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.</p> <p>3. – The Supervisory Authority may establish a commission of experts, from among persons nominated by the negotiating 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.</p> | <p style="text-align: center;"><i>Article 1 – Definitions</i></p> <p>(kk) “Supervisory Authority” means, in respect of the Protocol, the Supervisory Authority referred to in Article 17(1);</p> <p style="text-align: center;"><i>Article 17 – The Supervisory Authority and the Registrar</i></p> <p>1. There shall be a Supervisory Authority as provided by the Protocol.</p> <p>2. The Supervisory Authority shall:</p> <p style="padding-left: 40px;">(a) establish or provide for the establishment of the International Registry;</p> <p style="padding-left: 40px;">(b) except as otherwise provided by the Protocol, appoint and dismiss the Registrar;</p> <p style="padding-left: 40px;">(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;</p> <p style="padding-left: 40px;">(d) after consultation with the Contracting States, make or approve and ensure the publication of regulations pursuant to the Protocol dealing with the operation of the International Registry;</p> <p style="padding-left: 40px;">(e) establish administrative procedures through which complaints concerning the operation of the International Registry can be made to the Supervisory Authority;</p> <p style="padding-left: 40px;">(f) supervise the Registrar and the operation of the International Registry;</p> <p style="padding-left: 40px;">(g) at the request of the Registrar, provide such guidance to the Registrar as the Supervisory Authority thinks fit;</p> <p style="padding-left: 40px;">(h) set and periodically review the structure of fees to be charged for the services and facilities of the International Registry;</p> <p style="padding-left: 40px;">(i) do all things necessary to ensure that an efficient notice-based electronic</p> |

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| | <p>registration system exists to implement the objectives of this Convention and the Protocol; and</p> <p>(j) report periodically to Contracting States concerning the discharge of its obligations under this Convention and the Protocol.</p> <p>3. The Supervisory Authority may enter into any agreement requisite for the performance of its functions, including any agreement referred to in Article 27(3).</p> <p>4. The Supervisory Authority shall own all proprietary rights in the data bases and archives of the International Registry.</p> <p>5. The Registrar shall ensure the efficient operation of the International Registry and perform the functions assigned to it by this Convention, the Protocol and the regulations.</p> <p style="text-align: center;"><i>Article 27 – Legal personality; immunity</i></p> <p>1. The Supervisory Authority shall have international legal personality where not already possessing such personality.</p> <p>2. The Supervisory Authority and its officers and employees shall enjoy such immunity from legal or administrative process as is specified in the Protocol.</p> <p>3. (a) The Supervisory Authority shall enjoy exemption from taxes and such other privileges as may be provided by agreement with the host State.</p> <p>(b) For the purposes of this paragraph, “host State” means the State in which the Supervisory Authority is situated.</p> <p>...</p> <p>6. The Supervisory Authority may waive the inviolability and immunity conferred by paragraph 4.</p> |
| <p style="text-align: center;"><i>Article XXIX – First regulations</i></p> <p>The first regulations shall be made by the Supervisory Authority so as to take effect on the entry into force of this Protocol.</p> | <p style="text-align: center;"><i>Article 1 – Definitions</i></p> <p>(ff) “regulations” means regulations made or approved by the Supervisory Authority pursuant to the Protocol;</p> |

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| <p data-bbox="181 356 746 416"><i>Article XXX – Identification of space assets for registration purposes</i></p> <p data-bbox="150 454 778 703">A description of a space asset that contains the name of its manufacturer, its manufacturer’s serial number and its model designation, and satisfies such other requirements as may be established in the regulations is necessary and sufficient to identify the space asset for the purposes of registration in the International Registry.</p> | <p data-bbox="983 356 1254 385"><i>Article 1 – Definitions</i></p> <p data-bbox="807 423 1433 512">(p) “International Registry” means the international registration facilities established for the purposes of this Convention or the Protocol;</p> <p data-bbox="884 551 1356 580"><i>Article 18 – Registration requirements</i></p> <p data-bbox="807 618 1433 707">1. The Protocol and regulations shall specify the requirements, including the criteria for the identification of the object:</p> <p data-bbox="807 745 1433 869">(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 20);</p> <p data-bbox="807 907 1433 967">(b) for making searches and issuing search certificates, and, subject thereto;</p> <p data-bbox="807 1005 1433 1128">(c) for ensuring the confidentiality of information and documents of the International Registry other than information and documents relating to a registration.</p> <p data-bbox="807 1167 1433 1249">2. The Registrar shall not be under a duty to enquire whether a consent to registration under Article 20 has in fact been given or is valid.</p> <p data-bbox="807 1288 1433 1473">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.</p> <p data-bbox="807 1512 1433 1662">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.</p> <p data-bbox="807 1700 1433 1984">5. The Protocol may provide that a Contracting State may designate an entity or entities in its territory as the entry point or entry points through which the information required for registration shall or may be transmitted to the International Registry. 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.</p> |

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| | <p style="text-align: center;"><i>Article 22 – Searches</i></p> <p>1. Any person may, in the manner prescribed by the Protocol and regulations, make or request a search of the International Registry by electronic means concerning interests or prospective international interests registered therein.</p> <p>2. Upon receipt of a request therefor, the Registrar, in the manner prescribed by the Protocol and regulations, shall issue a registry search certificate by electronic means with respect to any object:</p> <p style="padding-left: 40px;">(a) stating all registered information relating thereto, together with a statement indicating the date and time of registration of such information; or</p> <p style="padding-left: 40px;">(b) stating that there is no information in the International Registry relating thereto.</p> <p>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.</p> |
| <p><i>Article XXXI – Additional modifications to Registry provisions</i></p> <p>1. – Article 16 of the Convention applies with the following being added immediately after paragraph 1:</p> <p style="padding-left: 40px;">“1 <i>bis</i> The International Registry shall also provide for:</p> <p style="padding-left: 80px;">(a) the recording of rights assignments;</p> <p style="padding-left: 80px;">(b) the recording of acquisitions of debtor’s rights by subrogation;</p> <p style="padding-left: 80px;">(c) the registration of public service notices under Article XXVII(1) of the [Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets]; and</p> | <p style="text-align: center;"><i>Article 16 – The International Registry</i></p> <p>1. An International Registry shall be established for registrations of:</p> <p style="padding-left: 40px;">(a) international interests, prospective international interests and registrable non-consensual rights and interests;</p> <p style="padding-left: 40px;">(b) assignments and prospective assignments of international interests;</p> <p style="padding-left: 40px;">(c) acquisitions of international interests by legal or contractual subrogations under the applicable law;</p> <p style="padding-left: 40px;">(d) notices of national interests; and</p> <p style="padding-left: 40px;">(e) subordinations of interests referred to in any of the preceding sub-paragraphs.</p> |

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| <p>(d) the registration of creditors' notices under Article XXVII(3) of the [Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets]."</p> <hr/> <p>2. – For the purposes of Article 19(6) of the Convention, the search criteria for space assets shall be the criteria specified in Article XXX of this Protocol.</p> <hr/> <p>3. – 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 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.</p> <hr/> <p>4. – 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.</p> <hr/> <p>5. – The centralised functions of the International Registry shall be operated and administered by the Registrar on a twenty-four hour basis.</p> <hr/> | <p>2. Different international registries may be established for different categories of object and associated rights.</p> <p>3. For the purposes of this Chapter and Chapter V, the term "registration" includes, where appropriate, an amendment, extension or discharge of a registration.</p> <hr/> <p><i>Article 19 – Validity and time of registration</i></p> <p>6. A registration shall be searchable in the International Registry data base according to the criteria prescribed by the Protocol.</p> <hr/> <p><i>Article 25 – Discharge of registration</i></p> <p>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.</p> <hr/> <p><i>Article 17 – The Supervisory Authority and the Registrar</i></p> <p>2. The Supervisory Authority shall:</p> <p>(h) set and periodically review the structure of fees to be charged for the services and facilities of the International Registry;</p> <hr/> |

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| <p>6. – The insurance or financial guarantee referred to in Article 28(4) of the Convention shall cover the liability of the Registrar under the Convention to the extent provided by the regulations.</p> <p>7. – 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.</p> | <p><i>Article 28 – Liability and financial assurances</i></p> <p>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.</p> <p>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.</p> <p>3. Compensation under paragraph 1 may be reduced to the extent that the person who suffered the damage caused or contributed to that damage.</p> <p>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 Protocol.</p> |
| CHAPTER IV – JURISDICTION | |
| <p><i>Article XXXII – Waiver of sovereign immunity</i></p> <p>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 a space asset 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.</p> <p>2. – A waiver under the preceding paragraph must be in writing and contain a</p> | <p><i>Article 42 – Choice of forum</i></p> <p>1. Subject to Articles 43 and 44, 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.</p> <p>2. Any such agreement shall be in writing or otherwise concluded in accordance with the formal requirements of the law of the chosen forum.</p> |

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| <p>description, in accordance with Article VII of this Protocol, of the space asset.</p> | <p><i>Article 43 – Jurisdiction under Article 13</i></p> <p>1. The courts of a Contracting State chosen by the parties and the courts of the Contracting State on the territory of which the object is situated have jurisdiction to grant relief under Article 13(1)(a), (b), (c) and Article 13(4) in respect of that object.</p> <p>2. Jurisdiction to grant relief under Article 13(1)(d) or other interim relief by virtue of Article 13(4) may be exercised either:</p> <p style="padding-left: 40px;">(a) by the courts chosen by the parties; or</p> <p style="padding-left: 40px;">(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.</p> <p>3. A court has jurisdiction under the preceding paragraphs even if the final determination of the claim referred to in Article 13(1) will or may take place in a court of another Contracting State or by arbitration.</p> |
| CHAPTER V – RELATIONSHIP WITH OTHER CONVENTIONS | |
| <p><i>Article XXXIII – Relationship with the UNIDROIT Convention on International Financial Leasing</i></p> <p>The Convention as applied to space assets shall supersede the <i>UNIDROIT Convention on International Financial Leasing</i> in respect of the subject matter of this Protocol, as between States Parties to both Conventions.</p> | <p><i>Article 46 – Relationship with the UNIDROIT Convention on International Financial Leasing</i></p> <p>The Protocol may determine the relationship between this Convention and the <i>UNIDROIT Convention on International Financial Leasing</i>, signed at Ottawa on 28 May 1988.</p> |
| <p><i>Article XXXIV – Relationship with the United Nations Outer Space Treaties and instruments of the International Telecommunication Union</i></p> <p>The Convention as applied to space assets does not affect State Party rights and obligations under the existing United Nations Outer Space Treaties or instruments of the International Telecommunication Union.</p> | |

| [CHAPTER VI – FINAL PROVISIONS ⁶] | |
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| <p style="text-align: center;"><i>Article A – Signature, ratification, acceptance, approval or accession</i></p> <p>1. – This Protocol shall be open for signature in Berlin on 9 March 2012 by States participating in the diplomatic Conference for the adoption of the draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets held in Berlin from 27 February to 9 March 2012. After 9 March 2012 this Protocol shall be open to all States for signature at until it enters into force in accordance with Article C.</p> <p>2. – This Protocol shall be subject to ratification, acceptance or approval by States which have signed it.</p> <p>3. – Any State which does not sign this Protocol may accede to it at any time.</p> <p>4. – Ratification, acceptance, approval or accession is effected by the deposit of a formal instrument to that effect with the Depositary. ⁷</p> <p>5. – A State may not become a Party to this Protocol unless it is or becomes also a Party to the Convention.</p> | |
| <p style="text-align: center;"><i>Article B – Regional Economic Integration Organisations</i></p> <p>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.</p> | |
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⁶ In line with practice, draft Final Provisions have been prepared for the diplomatic Conference by the UNIDROIT Secretariat. These are set out in DCME-SP - Doc. 5.

⁷ It is recommended that, in line with the practice established in the wake of the Cape Town diplomatic Conference for the Cape Town Convention and the Aircraft Protocol, a model instrument of ratification, acceptance, approval or accession of the future Protocol be drawn up by the Secretariat after the diplomatic Conference and circulated amongst all negotiating States.

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| <p>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 in writing of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.</p> <p>3. – Any reference to a “Contracting State”, “Contracting States”, “State Party” or “States Parties” in this Protocol applies equally to a Regional Economic Integration Organisation where the context so requires.</p> | |
| <p style="text-align: center;"><i>Article C – Entry into force</i></p> <p>1. – This Protocol enters into force between the States which have deposited instruments referred to in sub-paragraph (a) on the later of:</p> <p style="padding-left: 40px;">(a) the first day of the month following the expiration of three months after the date of the deposit of the [fifth] instrument of ratification, acceptance, approval or accession; and</p> <p style="padding-left: 40px;">(b) the date of the deposit by [the Supervisory Authority] with the Depositary of a certificate confirming that the International Registry is fully operational.</p> <p>2. – For other States this Protocol enters into force on the first day of the month following the later of:</p> <p style="padding-left: 40px;">(a) the expiration of three months after the date of the deposit of their instrument of ratification, acceptance, approval or accession; and</p> <p style="padding-left: 40px;">(b) the date referred to in sub-paragraph (b) of the preceding paragraph.</p> | |

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| <p style="text-align: center;"><i>Article D – Territorial units</i></p> <p>1. – If a Contracting State has two or more 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 signature, ratification, acceptance, approval or accession, make an initial declaration 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.</p> <p>2. – Any such declaration shall state expressly the territorial units to which this Protocol applies.</p> <p>3. – If a Contracting State has not made any declaration under paragraph 1, this Protocol shall apply to all territorial units of that State.</p> <p>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.</p> <p>5. – In relation to a Contracting State with two or more territorial units in which different systems of law are applicable in relation to the matters dealt with in this Protocol, any reference to the law in force in a Contracting State or to the law of a Contracting State shall be construed as referring to the law in force in the relevant territorial unit.</p> | |
| <p style="text-align: center;"><i>Article E – Transitional provisions</i></p> <p>In relation to space assets Article 60 of the Convention shall be modified as follows:</p> <p style="padding-left: 40px;">(a) in paragraph 2(a), after "situated" insert "at the time the right or interest is created or arises";</p> <p style="padding-left: 40px;">(b) replace paragraph 3 with the following:</p> <p style="padding-left: 40px;">"3. – A Contracting State may in its declaration under paragraph 1 specify a date, not</p> | <p style="text-align: center;"><i>Article 60 – Transitional provisions</i></p> <p>2. For the purposes of Article 1(v) and of determining priority under this Convention:</p> <p style="padding-left: 40px;">(a) "effective date of this Convention" means in relation to a debtor the time when this 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 ...</p> <p>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</p> |

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| <p>earlier than three years after the date on which the declaration becomes effective, when Articles 29, 35 and 36 of the Convention as modified or supplemented by the Protocol will become applicable, to the extent and in the manner specified in the declaration, to pre-existing rights or interests arising under an agreement made at a time when the debtor was situated in that State. Any priority of the right or interest under the law of that State, so far as applicable, shall continue if the right or interest is registered in the International Registry before the expiration of the period specified in the declaration, whether or not any other right or interest has previously been registered.”</p> | <p>becomes effective, when this Convention and the Protocol 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.</p> |
| <p style="text-align: center;"><i>Article F – Declarations relating to certain provisions</i></p> <p>1. – A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare:</p> <p style="padding-left: 40px;">(a) that it will not apply Article VIII;</p> <p style="padding-left: 40px;">(b) that it will apply either or both of Articles XXII and XXVI.</p> <p>2. – A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will apply Article XX wholly or in part. If it so declares with respect to Article XX(2), it shall specify the time-period required thereby.</p> <p>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 XXI 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 XXI.</p> <p>4. – The courts of Contracting States shall apply Article XXI in conformity with the declaration made by the Contracting State that is the primary insolvency jurisdiction.</p> | |

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| <p data-bbox="183 356 743 387"><i>Article G – Declarations under the Convention</i></p> <p data-bbox="150 423 778 577">Declarations made under the Convention, including those made under Articles 39, 40, 53, 54, 55, 57, 58 and 60 of the Convention, shall be deemed to have also been made under this Protocol unless stated otherwise.</p> | <p data-bbox="858 356 1378 421"><i>Article 39 – Rights having priority without registration</i></p> <p data-bbox="805 456 1434 546">1. A Contracting State may at any time, in a declaration deposited with the Depositary of the Protocol declare, generally or specifically:</p> <p data-bbox="805 582 1434 835">(a) those categories of non-consensual right or interest (other than a right or interest to which Article 40 applies) which under that State’s law have priority over an interest in an 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</p> <p data-bbox="805 871 1434 1124">(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 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 object.</p> <p data-bbox="805 1160 1434 1279">2. A declaration made under the preceding paragraph may be expressed to cover categories that are created after the deposit of that declaration.</p> <p data-bbox="805 1314 1434 1469">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.</p> <p data-bbox="805 1505 1434 1794">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.</p> <p data-bbox="817 1830 1423 1895"><i>Article 40 – Registrable non-consensual rights or interests</i></p> <p data-bbox="805 1930 1434 2074">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 category of object as if</p> |

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| | <p>the right or interest were an international interest and shall be regulated accordingly. Such a declaration may be modified from time to time.</p> <p style="text-align: center;"><i>Article 53 – Determination of courts</i></p> <p>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 XII of this Convention.</p> <p style="text-align: center;"><i>Article 54 – Declarations regarding remedies</i></p> <p>1. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that while the charged object is situated within, or controlled from its territory the chargee shall not grant a lease of the object in that territory.</p> <p>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.</p> <p style="text-align: center;"><i>Article 55 – Declarations regarding relief pending final determination</i></p> <p>A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that it will not apply the provisions of Article 13 or Article 43, or both, 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.</p> <p style="text-align: center;"><i>Article 57 – Subsequent declarations</i></p> <p>1. A State Party may make a subsequent declaration, other than a declaration authorised under Article 60, at any time after the date on which this Convention has entered into force for it, by notifying the Depositary to that effect.</p> <p>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</p> |

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| | <p>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.</p> <p>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.</p> <p style="text-align: center;"><i>Article 58 – Withdrawal of declarations</i></p> <p>1. Any State Party having made a declaration under this Convention, other than a declaration authorised under Article 60, 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.</p> <p>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.</p> <p style="text-align: center;"><i>Article 60 – Transitional provisions</i></p> <p>1. Unless otherwise declared by a Contracting State at any time, the 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 this Convention.</p> <p>2. For the purposes of Article 1(v) and of determining priority under this Convention:</p> <p style="padding-left: 40px;">(a) “effective date of this Convention” means in relation to a debtor the time when this 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</p> <p style="padding-left: 40px;">(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.</p> |

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| | <p>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 this Convention and the Protocol 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.</p> |
| <p><i>Article H – Reservations and declarations</i></p> <p>1. – No reservations may be made to this Protocol but declarations authorised by Articles D, F, G and I may be made in accordance with these provisions.</p> <p>2. – Any declaration, subsequent declaration or any withdrawal of a declaration made under this Protocol shall be notified in writing to the Depositary.</p> | |
| <p><i>Article I – Subsequent declarations</i></p> <p>1. – A State Party may make a subsequent declaration, other than the declaration made in accordance with Article G 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.</p> <p>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.</p> <p>3. – Notwithstanding the previous paragraphs, this Protocol shall continue to apply, as if no such subsequent declaration had been made, in respect of all rights and interests arising prior to the effective date of any such subsequent declaration.</p> | |

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| <p style="text-align: center;"><i>Article J – Withdrawal of declarations</i></p> <p>1. – Any State Party having made a declaration under this Protocol, other than a declaration made in accordance with Article G 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.</p> <p>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 of declaration.</p> | |
| <p style="text-align: center;"><i>Article K – Denunciations</i></p> <p>1. – Any State Party may denounce this Protocol by notification in writing to the Depositary.</p> <p>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.</p> <p>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.</p> | |
| <p style="text-align: center;"><i>Article L – Review Conferences, amendments and related matters</i></p> <p>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 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.</p> | |

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| <p>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:</p> <p>(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 assets covered by its terms;</p> <p>(b) the judicial interpretation given to, and the application made of the terms of this Protocol and the regulations;</p> <p>(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</p> <p>(d) whether any modifications to this Protocol or the arrangements relating to the International Registry are desirable.</p> <p>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 Parties which have ratified, accepted or approved such amendment when it has been ratified, accepted or approved by [five] States Parties in accordance with the provisions of Article C relating to its entry into force.</p> | |
| <p><i>Article M – Depositary and its functions</i></p> <p>1. – Instruments of ratification, acceptance, approval or accession shall be deposited with, which is hereby designated the Depositary.</p> <p>2. – The Depositary shall:</p> <p>(a) inform all Contracting States of:</p> <p>(i) each new signature or deposit of an instrument of ratification,</p> | |

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| <p>acceptance, approval or accession, together with the date thereof;</p> <p>(ii) the date of entry into force of this Protocol;</p> <p>(iii) each declaration made in accordance with this Protocol, together with the date thereof;</p> <p>(iv) the withdrawal or amendment of any declaration, together with the date thereof; and</p> <p>(v) the notification of any denunciation of this Protocol together with the date thereof and the date on which it takes effect;</p> <p>(b) transmit certified true copies of this Protocol to all Contracting States;</p> <p>(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</p> <p>(d) perform such other functions customary for depositaries.</p> | |