



**Air Transportation Management,
M.Sc. Programme**

**Air Law, Regulation and
Compliance Management**

Course material:

Aircraft Finance and Registration of Security Interests

Module 15

From:

Convention on the International Recognition of Rights in Aircraft, 19 JUNE 1948, 310 UNTS 151; ICAO Doc. 7620; [1948] JALC 348; TIAS No. 2847 [Geneva Convention]

**CONVENTION ON THE INTERNATIONAL RECOGNITION OF
RIGHTS IN AIRCRAFT, SIGNED AT GENEVA, ON 19 JUNE 1948
(GENEVA CONVENTION)**

WHEREAS the International Civil Aviation Conference, held at Chicago in November-December 1944, recommended the early adoption of a Convention dealing with the transfer of title to aircraft,

WHEREAS it is highly desirable in the interest of the future expansion of international civil aviation that rights in aircraft be recognised internationally,

THE UNDERSIGNED, duly authorized, HAVE AGREED, on behalf of their respective Governments, AS FOLLOWS:

Article I

1. The Contracting States undertake to recognise:

(a) rights of property in aircraft;

(b) rights to acquire aircraft by purchase coupled with possession of the aircraft;

(c) rights to possession of aircraft under leases of six months or more;

(d) mortgages, hypothèques and similar rights in aircraft which are contractually created as security for payment of an indebtedness;

provided that such rights

(i) have been constituted in accordance with the law of the Contracting State in which the aircraft was registered as to nationality at the time of their constitution, and

(ii) are regularly recorded in a public record of the Contracting State in which the aircraft is registered as to nationality.

The regularity of successive recordings in different Contracting States shall be determined in accordance with the law of the State where the aircraft was registered as to nationality at the time of each recording.

2. Nothing in this Convention shall prevent the recognition of any rights in aircraft under the law of any Contracting State; but Contracting States shall not admit or recognise any right as taking priority over the rights mentioned in paragraph 1 of this Article.

Article II

1. All recordings relating to a given aircraft must appear in the same record.

2. Except as otherwise provided in this Convention, the effects of the recording of any right mentioned in Article I, paragraph 1, with regard to third parties shall be determined according to the law of the Contracting State where it is recorded.

3. A Contracting State may prohibit the recording of any right which cannot validly be constituted according to its national law.

Article III

1. The address of the authority responsible for maintaining the record must be shown on every aircraft's certificate of registration as to nationality.

2. Any person shall be entitled to receive from the authority duly certified copies or extracts of the particulars recorded. Such copies or extracts shall constitute prima facie evidence of the contents of the record.

3. If the law of a Contracting State provides that the filing of a document for recording shall have the same effect as the recording, it shall have the same effect for the purposes of this Convention. In that case, adequate provision shall be made to ensure that such document is open to the public.

4. Reasonable charges may be made for services performed by the authority maintaining the record.

Article IV

1. In the event that any claims in respect of:

(a) compensation due for salvage of the aircraft, or

(b) extraordinary expenses indispensable for the

preservation of the aircraft

give rise, under the law of the Contracting State where the operations of salvage or preservation were terminated, to a right conferring a charge against the aircraft, such right shall be recognised by Contracting States and shall take priority over all other rights in the aircraft.

2. The rights enumerated in paragraph 1 shall be satisfied in the inverse order of the dates of the incidents in connexion with which they have arisen.

3. Any of the said rights may, within three months from the date of the termination of the salvage or preservation operations, be noted on the record.

4. The said rights shall not be recognised in other Contracting

States after expiration of the three months mentioned in paragraph 3 unless, within this period,

(a) the right has been noted on the record in conformity with paragraph 3, and

(b) the amount has been agreed upon or judicial action on the right has been commenced. As far as judicial action is con-

cerned, the law of the forum shall determine the contingencies upon which the three months period may be interrupted or suspended.

5. This Article shall apply notwithstanding the provisions of Article I, paragraph 2.

Article V

The priority of a right mentioned in Article I, paragraph 1 (d), extends to all sums thereby secured. However, the amount of interest included shall not exceed that accrued during the three years prior to the execution proceedings together with that accrued during the execution proceedings.

Article VI

In case of attachment or sale of an aircraft in execution, or of any right therein, the Contracting States shall not be obliged to recognise, as against the attaching or executing creditor or against the purchaser, any right mentioned in Article I, paragraph 1, or the transfer of any such right, if constituted or effected with knowledge of the sale or execution proceedings by the person against whom the proceedings are directed.

Article VII

1. The proceedings of a sale of an aircraft in execution shall be determined by the law of the Contracting State where the sale takes place.

2. The following provisions shall however be observed:

(a) The date and place of the sale shall be fixed at least six weeks in advance.

(b) The executing creditor shall supply to the Court or other competent authority a certified extract of the recordings concerning the aircraft. He shall give public notice of the sale at the place where the aircraft is registered as to nationality, in accordance with the law there applicable, at least one month before the day fixed, and shall concurrently notify by registered letter, if possible by air mail, the recorded owner and the holders of

recorded rights in the aircraft and of rights noted on the record under Article IV, paragraph 3, according to their addresses as shown on the record.

3. The consequences of failure to observe the requirements of paragraph 2 shall be as provided by the law of the Contracting State where the sale takes place. However, any sale taking place in contravention of the requirements of that paragraph may be annulled upon demand made within six months from the date of the sale by any person suffering damage as the result of such contravention.

4. No sale in execution can be effected unless all rights having priority over the claim of the executing creditor in accordance with this Convention which are established before the competent authority, are covered by the proceeds of sale or assumed by the purchaser.

5. When injury or damage is caused to persons or property on the surface of the Contracting State where the execution sale takes place, by any aircraft subject to any right referred to in Article I held as security for an indebtedness, unless adequate and effective insurance by a State or an insurance undertaking in any State has been provided by or on behalf of the operator to cover such injury or damage, the national law of such Contracting State may provide in case of the seizure of such aircraft or any other aircraft owned by the same person and encumbered with any similar right held by the same creditor:

(a) that the provisions of paragraph 4 above shall have no effect with regard to the person suffering such injury or damage or his representative if he is an executing creditor;

(b) that any right referred to in Article I held as security for an indebtedness encumbering the aircraft may not be set up against any person suffering such injury or damage or his representative in excess of an amount equal to 80% of the sale price.

In the absence of other limit established by the law of the Contracting State where the execution sale takes place, the insurance shall be considered adequate within the meaning of the present paragraph if the amount of the insurance corresponds to the value when new of the aircraft seized in execution.

6. Costs legally chargeable under the law of the Contracting State where the sale takes place, which are incurred in the common interest of creditors in the course of execution proceedings leading to sale, shall be paid out of the proceeds of sale before any claims, including those given preference by Article IV.

Article VIII

Sale of an aircraft in execution in conformity with the provisions of Article VII shall effect the transfer of the property in such aircraft free

from all rights which are not assumed by the purchaser.

Article IX

Except in the case of a sale in execution in conformity with the provisions of Article VII, no transfer of an aircraft from the nationality register or the record of a Contracting State to that of another Contracting State shall be made, unless all holders of recorded rights have been satisfied or consent to the transfer.

Article X

1. If a recorded right in an aircraft of the nature specified in Article 1, and held as security for the payment of an indebtedness, extends, in conformity with the law of the Contracting State where the aircraft is registered, to spare parts stored in a specified place or places, such right shall be recognised by all Contracting States, as long as the spare parts remain in the place or places specified, provided that an appropriate public notice, specifying the description of the right, the name and address of the holder of this right and the record in which such right is recorded, is exhibited at the place where the spare parts are located, so as to give due notification to third parties that such spare parts are encumbered.

2. A statement indicating the character and the approximate number of such spare parts shall be annexed to or included in the recorded document. Such parts may be replaced by similar parts without affecting the right of the creditor.

3. The provisions of Article VII, paragraphs 1 and 4, and of Article VIII shall apply to a sale of spare parts in execution. However, where the executing creditor is an unsecured creditor, paragraph 4 of Article VII in its application to such a sale shall be construed so as to permit the sale to take place if a bid is received in an amount not less than two-thirds of the value of the spare parts as determined by experts appointed by the authority responsible for the sale. Further, in the distribution of the proceeds of sale, the competent authority may, in order to provide for the claim of the executing creditor, limit the amount payable to holders of prior rights to two-thirds of such proceeds of sale after payment of the costs referred to in Article VII, paragraph 6.

4. For the purpose of this Article the term "spare parts" means parts of aircraft, engines, propellers, radio apparatus, instruments, appliances, furnishings, parts of any of the foregoing, and generally any other articles of whatever description maintained for installation in aircraft in substitution for parts or articles removed.

Article XI

1. The provisions of this Convention shall in each Contracting State apply to all aircraft registered as to nationality in another Contracting State.

2. Each Contracting State shall also apply to aircraft there registered as to nationality:

(a) The provisions of Articles II, III, IX, and

(b) The provisions of Article IV, unless the salvage or preservation operations have been terminated within its own territory.

Article XII

Nothing in this Convention shall prejudice the right of any Contracting State to enforce against an aircraft its national laws relating to immigration, customs or air navigation.

Article XIII

This Convention shall not apply to aircraft used in military, customs or police services.

Article XIV

For the purpose of this Convention, the competent judicial and administrative authorities of the Contracting States may, subject to any contrary provision in their national law, correspond directly with each other.

Article XV

The Contracting States shall take such measures as are necessary for the fulfilment of the provisions of this Convention and shall forthwith inform the Secretary General of the International Civil Aviation Organization of these measures.

Article XVI

For the purposes of this Convention the term "aircraft" shall include the airframe, engines, propellers, radio apparatus, and all other articles intended for use in the aircraft whether installed therein or temporarily separated therefrom.

Article XVII

If a separate register of aircraft for purposes of nationality is maintained in any territory for whose foreign relations a Contracting State is responsible, references in this Convention to the law of the Contracting State shall be construed as references to the law of that territory.

Article XVIII

This Convention shall remain open for signature until it comes into force in accordance with the provisions of Article XX.

Article XIX

1. This Convention shall be subject to ratification by the signatory States.

2. The instruments of ratification shall be deposited in the archives of the International Civil Aviation Organization, which shall give notice of the date of deposit to each of the signatory and adhering States.

Article XX

1. As soon as two of the signatory States have deposited their instruments of ratification of this Convention, it shall come into force between them on the ninetieth day after the date of the deposit of the second instrument of ratification. It shall come into force, for each State which deposits its instrument of ratification after that date, on the ninetieth day after the deposit of its instrument of ratification.

2. The International Civil Aviation Organization shall give notice to each signatory State of the date on which this Convention comes into force.

3. As soon as this Convention comes into force, it shall be registered with the United Nations by the Secretary General of the International Civil Aviation Organization.

Article XXI

1. This Convention shall, after it has come into force, be open for adherence by non-signatory States.

2. Adherence shall be effected by the deposit of an instrument of adherence in the archives of the International Civil Aviation Organization, which shall give notice of the date of the deposit to each signatory and adhering State.

3. Adherence shall take effect as from the ninetieth day after the

date of the deposit of the instrument of adherence in the archives of the International Civil Aviation Organization.

Article XXII

1. Any Contracting State may denounce this Convention by notification of denunciation to the International Civil Aviation Organization, which shall give notice of the date of receipt of such notification to each signatory and adhering State.

2. Denunciation shall take effect six months after the date of receipt by the International Civil Aviation Organization of the notification of denunciation.

Article XXIII

1. Any State may at the time of deposit of its instrument of ratification or adherence, declare that its acceptance of this Convention does not apply to any one or more of the territories for the foreign relations of which such State is responsible.

2. The International Civil Aviation Organization shall give notice of any such declaration to each signatory and adhering State.

3. With the exception of territories in respect of which a declaration has been made in accordance with paragraph 1 of this Article, this Convention shall apply to all territories for the foreign relations of which a Contracting State is responsible.

4. Any State may adhere to this Convention separately on behalf of all or any of the territories regarding which it has made a declaration in accordance with paragraph 1 of this Article and the provisions of paragraphs 2 and 3 of Article XXI shall apply to such adherence.

5. Any Contracting State may denounce this Convention, in accordance with the provisions of Article XXII, separately for all or any of the territories for the foreign relations of which such State is responsible.

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

DONE at Geneva, on the nineteenth day of the month of June of the year one thousand nine hundred and forty-eight in the English, French and Spanish languages, each text being of equal authenticity.

This Convention shall be deposited in the archives of the International Civil Aviation Organization where, in accordance with Article XVIII, it shall remain open for signature.