

**No. 4492**

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**ARGENTINA, AUSTRALIA, BELGIUM,  
BRAZIL, CHILE, etc.**

**Convention on the International Recognition of Rights in  
Aircraft. Done at Geneva, on 19 June 1948**

*Official texts: English, French and Spanish.*

*Registered by the International Civil Aviation Organization on 9 September 1958.*

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**ARGENTINE, AUSTRALIE, BELGIQUE,  
BRÉSIL, CHILI, etc.**

**Convention relative à la reconnaissance internationale des  
droits sur aéronef. Faite à Genève, le 19 juin 1948**

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*Enregistrée par l'Organisation de l'aviation civile internationale le 9 septembre 1958.*

No. 4492. CONVENTION<sup>1</sup> ON THE INTERNATIONAL RECOGNITION OF RIGHTS IN AIRCRAFT. DONE AT GENEVA, ON 19 JUNE 1948

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 ;

<sup>1</sup> In accordance with articles XX(1) and XXI, the Convention came into force as between the United States of America and Pakistan on 17 September 1953, the ninetieth day after the deposit of the second instrument of ratification and for each State which deposited its instrument of ratification or adherence after that date, on the ninetieth day after the deposit of its instrument of ratification or adherence. Following is a list of States which deposited the instruments of ratification or adherence (a) in the archives of the International Civil Aviation Organization showing the dates of deposit and of the entry into force of the Convention :

|                                    | <i>Date of<br/>deposit</i> | <i>Date of entry<br/>into force</i> |
|------------------------------------|----------------------------|-------------------------------------|
| United States of America . . . . . | 6 September 1949           | 17 September 1953                   |
| Pakistan . . . . .                 | 19 June 1953               | 17 September 1953                   |
| Brazil . . . . .                   | 3 July 1953                | 1 October 1953                      |
| Norway . . . . .                   | 5 March 1954               | 2 June 1954                         |
| Sweden . . . . .                   | 16 November 1955           | 14 February 1956                    |
| Chile . . . . .                    | 19 December 1955           | 18 March 1956                       |
| Laos (a) . . . . .                 | 4 June 1956                | 2 September 1956                    |
| Argentina . . . . .                | 31 January 1958            | 1 May 1958                          |
| Ecuador (a) . . . . .              | 14 July 1958               | 12 October 1958                     |
| El Salvador (a) . . . . .          | 14 August 1958             | 12 November 1958                    |

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 operation, 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 concerned, 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.