

Russia is joining the Cape Town Convention

On 23 December 2010 the Russian Federation adopted a law by which it determined to accede to the Convention on International Interests in Mobile Equipment (the "**Convention**") and the related Protocol on Matters specific to Aircraft Equipment (the "**Protocol**")¹, with effect from 1 January 2011. In accordance with the procedure set out in the Convention, accession to the Convention and the Protocol will be complete after three months from depositing a formal instrument with the depository designated in the Convention.

The following declarations were made in the new law and accession by Russia to the Convention and the Protocol will take effect subject to these declarations:

1. on the basis of paragraph 1 (a) of article 39 of the Convention, following claims of creditors within insolvency proceedings shall have priority over a registered international interest:
 - claims of creditors for current payments;
 - claims for reimbursement of expenses for actions taken to prevent technological and/or ecological catastrophe or loss of life being a result of the debtor's (or its structural subdivisions) insolvency;
 - personal claims in tort against the debtor and compensation of moral damage;
 - claims of current or previous employees of the debtor for salary and retirement payments and claims for remuneration from owners (authors) of intellectual property;
2. on the basis of paragraph 1 (b) of article 39 of the Convention, nothing in the Convention shall affect the right of Russia or a Russian state entity, intergovernmental organisation or other private provider of public services to arrest or detain an object under the laws of Russia for payment of amounts owed to such entity, organisation or provider directly relating to those services in respect of that aviation object;
3. on the basis of article 53 of the Convention, settlement of disputes relating to the Convention and the Protocol shall be conducted by Russian arbitrazh courts;²
4. on the basis of paragraph 2 of article 54 of the Convention, any remedy available to the creditor under any provision of the Convention which does not expressly require application to court may be exercised out-of-court;
5. on the basis of paragraph 3 of article XXX of the Protocol, Russia will apply the entirety of Alternative A of article XI of the Protocol in the course of all insolvency proceeding. The waiting period for the purpose of article XI of the Protocol shall be equal to 60 calendar days.

Key Issues

Adoption of the law on accession to the Convention and the Protocol

Declarations made to the Convention

Declaration made to the Protocol

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¹ Federal Law dated 23 December 2010 No 361-FZ "On joining of the Russian Federation to the Convention on International Interests in Mobile Equipment and to the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment".

² A system of state commercial courts in the Russian Federation.

The analysis of the effect of Russia's accession to the Convention and the Protocol, including an analysis of the interaction between the Convention and current Russian legislation will follow in due course.

Parties should seek specific advice on the implications of the new law on their transactions involving Russian debtors or aircraft registered in Russia.

This Client briefing does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

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