

Documentary History of the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Space Assets

2000:

Following consultation with the United Nations Office for Outer Space Affairs (O.O.S.A.), the UNIDROIT Secretariat (hereinafter referred to as the *Secretariat*) called for back-to-back meetings with the Space Working Group and an *ad hoc* restricted informal group of experts to update the then preliminary draft Protocol to the draft UNIDROIT Convention on International Interests in Mobile Equipment (hereinafter referred to as the *draft Convention*) on Matters specific to Space Property (hereinafter referred to as *preliminary draft Protocol*). The *Restricted informal group of Experts to identify, and engage in a preliminary discussion of the issues which merit consideration in the context of the relationship between the draft UNIDROIT Convention on International Interests in Mobile Equipment and the preliminary draft Protocol thereto on Matters specific to Space Property and the existing body of international space law*, met in Rome in October. [{Study LXXII J – Doc. 1 – Report on the restricted informal group of experts, held in Rome from 18 to 19 October 2000 \(prepared by the UNIDROIT Secretariat\)}](#)

The first meeting of the *Space Working Group*, ordered by the Secretariat, was held in Rome from 19 to 20 October 2000. [{Study LXXII J – Doc. 2 – Report on the Space Working Group \(prepared by the UNIDROIT Secretariat\)}](#)

2001:

The *Current working draft of a preliminary draft Protocol to the draft UNIDROIT Convention on International Interests in Mobile Equipment on Matters specific to space property* (hereinafter referred to as the *Current working draft*), prepared by Peter D. Nsgos, Esq., one of the co-ordinators of the Space Working Group, was submitted for discussion within that group in Rome in January. The *Current working draft* identified the issues raised during the meeting of the restricted informal group of experts (Rome, 18/19 October 2000) (*cf.* UNIDROIT Study LXXIII-Doc. 1) and the meeting of the Space Working Group (Rome, 19/20 October 2000) (*cf.* UNIDROIT Study LXXIII-Doc. 2) (together, the “Rome Meetings”). [{Study LXXIII – Doc. 3 - Current working draft of a preliminary draft Protocol to the draft UNIDROIT Convention on International Interests in Mobile Equipment on Matters specific to space property \(prepared in January 2001 for discussion within the Space Working Group by Peter D. Nsgos, Esq., co-ordinator of the Working Group\)}](#)

In March, the *Current working draft*, prepared by Peter D. Nsgos, Esq., with the assistance of Dara A. Panahy, Esq., was submitted for discussion within that working group in Rome. This working draft sought to implement the ideas that came out of the Rome Meetings. [{Study LXXIII – Doc. 4 - Current working draft of a preliminary draft Protocol to the draft UNIDROIT Convention on International Interests in Mobile Equipment on Matters](#)

[specific to space property \(prepared in March 2001 for discussion within the Space Working Group by Peter D. Nesgos, Esq., co-ordinator of the Working Group, with the assistance of Dara A. Panahy, Esq.\)](#)

At its third session, held in Seal Beach, California in April, the *Space Working Group* met to consider further amendments to the new working draft on the preliminary draft Protocol to the draft Convention prepared by Peter D. Nesgos, Esq., with the assistance of Dara A. Panahy, Esq. (cf. Study LXXIII – Doc. 4). [{Study LXXII J – Doc. 5 – Report on the Space Working Group, held in Seal Beach, California from 23 to 24 April 2001 \(prepared by the UNIDROIT Secretariat\)}](#)

The text of the *preliminary draft Protocol*, prepared by the Space Working Group, was reproduced in Rome in July to be considered by the UNIDROIT Governing Council at its 80th session, to be held in Rome from 17 to 19 September 2001. [{Study LXXII J – Doc. 6 – Preliminary draft Space Protocol \(July 2001\)}](#)

Following the 80th session, the text of the *preliminary draft Protocol* was reproduced to reflect both the comments during the Evry Courcouronnes session of the Space Working Group and the texts of the Convention on International Interests in Mobile Equipment (hereinafter referred to as the *Convention*) and the Protocol thereto on Matters specific to Aircraft Equipment (hereinafter referred to as the *Aircraft Protocol*) as opened to signature in Cape Town on 16 November 2001. [{Study LXXII J – Doc. 7 – Preliminary draft Protocol on Matters specific to Space Assets as amended pursuant to the discussions at the fourth session of the working group, held in Evry Courcouronnes on 3 and 4 September 2001 and to the deliberations of the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol, held in Cape Town from 29 October to 16 November 2001}](#)

The *Space Working Group* met for a fourth time at the Headquarters of Arianespace in Evry Courcouronnes in September 2001. At this session, the *Space Working Group* met to consider: (1) the satisfactoriness of the provisions of the draft Convention from the point of view of their application to space property; (2) the best means of organizing the educational campaign to market the preliminary draft Protocol among suppliers of, and lenders against space property; and (3) the interaction of the Space Working Group and the industry expertise that it represented with the future intergovernmental consultation process on the preliminary draft Protocol. [Study LXXII J – Doc. 8 – Report on the Space Working Group, held in Evry Courcouronnes from 3 to 4 September 2001 \(report prepared by the UNIDROIT Secretariat\)}](#)

2002:

At its fifth session, held in Rome on 30 and 31 January 2002, the *Space Working Group* met to consider further the text of the preliminary draft Protocol to implement the amendments agreed upon at the previous session of the Space Working Group and reflect the changes made to the Aircraft Protocol at the diplomatic Conference in Cape Town from 29 October to 16 November 2001 (hereinafter referred to as the *diplomatic Conference*). [{Study LXXII J – Doc. 11 – Report on the Space Working Group, held in Rome from 30 to 31 January 2002 \(prepared by the UNIDROIT Secretariat\)}](#)

The text of the *preliminary draft Protocol* was reproduced to reflect the comments received during the Evry Courcouronnes session of the Space Working Group, the texts of the Convention, the Aircraft Protocol, and the discussions held at the fifth session of the Space Working Group. [{Study LXXII J – Doc. 9 – Preliminary draft Space Protocol \(2002\)}](#)

In February 2002, the *Steering and Revisions Committee for the Consideration of the preliminary draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets* met in Rome and reviewed the text of the preliminary draft Protocol, as revised by a restricted drafting group of the Space Working Group. The Steering and Revisions Committee amended the text of the preliminary draft Protocol and was able to conclude as to the full compatibility of that text with the Convention and as to its readiness to be transmitted to Governments. [{Study LXXII J – Doc. 12 – Report on the Steering and Revisions Committee, held in Rome on 1 February 2002 \(prepared by the UNIDROIT Secretariat\)}](#) [{Study LXXII J – Doc. 10 – Revised text of the preliminary draft Protocol \(Rome, February 2002\)}](#)

2003:

At its 82nd session, held in Rome from 26 to 28 May 2003, the *UNIDROIT Governing Council* gave the President the go-ahead to convene the first session of a UNIDROIT Committee of governmental experts for the preparation of a draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets (hereinafter referred to as the *Committee of governmental experts*). The Committee of governmental experts used the text produced in C.G.E. Space Pr./1/W.P.3 as the basic working document. [{C.G.E. Space Pr./1/W.P. 3 – Preliminary draft Protocol on Matters specific to Space Assets \(as established by a working group organised, at the invitation of the President of UNIDROIT, by Peter D. Nsgos, Esq., with the assistance of Dara A. Panahy, Esq., and revised, pursuant to a decision taken by the UNIDROIT Governing Council at its 80th session, held in Rome from 17 to 19 September 2001, by a Steering and Revisions Committee, meeting in Rome on 1 February 2002\)}](#)

The *Official Commentary on the Convention on International Interests in Mobile Equipment and the Protocol thereto on Matters specific to Aircraft Equipment* was prepared by Professor Sir Roy Goode, C.B.E., Q.C., Emeritus Professor of Law, University of Oxford, pursuant to Resolution No. 5 of the Cape Town diplomatic Conference. [{C.G.E. Space Pr./1/W.P. 4 – Extract from the Official Commentary on International Interests in Mobile Equipment and Protocol thereto on Matters specific to Aircraft Equipment by Professor Sir Roy Goode \(Rome, June 2003\)}](#)

In July 2003, *The preliminary draft Protocol on Matters specific to Space Assets: an overview of its overall objectives and key provisions*, was prepared by Dara A. Panahy (Associate, Milbank, Tweed, Hadley & McCloy LLP, Washington, D.C.), the assistant to Mr Peter D. Nsgos, co-ordinator of the Space Working Group. [{C.G.E. Space Pr./1/W.P. 5 – The preliminary draft Protocol on Matters specific to Space Assets: an overview of its overall objectives and key provisions \(Rome, July 2003\)}](#)

The Secretariat prepared the *Basic features of the proposed International Registry contemplated by the Cape Town Convention on International Interests in Mobile Equipment as*

implemented by the preliminary draft Protocol on Matters specific to Space Assets to set out the basic features of the International Registry contemplated by the Convention as implemented by the preliminary draft Protocol. [{C.G.E. Space Pr./1/W.P. 6 – Basic features of the proposed International Registry \(prepared by the UNIDROIT Secretariat\) – Rome, June 2003}](#)

A *colloquium on the preliminary draft Protocol* (Study LXXIII – Doc. 10 rev.) was held at the Head Office of the European Space Agency in Paris on 5 September 2003, to open up dialogue between representatives of Government and Industry to form a clear idea of what was needed by way of legal framework to enhance the opportunities for the use of asset-based financing in respect of commercial space activities. [{C.G.E. Space Pr./1/W.P. 7 – Summary Report \(prepared by the UNIDROIT Secretariat\) – Rome, October 2003}](#)

The *Committee of governmental experts* held a Plenary Session on 15 December 2003. The Committee completed Agenda Item numbers 1 through 5. [{C.G.E. Space Pr./1/ W.P. 09 – Draft report \(Plenary Session, 15 December 2003\)}](#) [{C.G.E. Space Pr./1/W.P. 1 – Draft Agenda}](#)

At its first session, held in Rome from 15 to 19 December 2003, the *Committee of governmental experts* met to consider the preliminary draft Protocol to the Convention (C.G.E. Space/1/W.P. 3) and its practical viability. During this session, the Committee of governmental experts proposed changes to the text of Article I(2)(a) and a new Article I(2)(g) of the draft Protocol and set up the Drafting Committee, co-chaired by Mr B. Welch (United Kingdom) and Mr M. Deschamps (Canada), to give effect to the matters referred to it by the Committee of governmental experts in light of its first reading of the preliminary draft Protocol. [{C.G.E. Space Pr./1/ W.P. 08 – Proposal \(by the Space Working Group on a new Article I\(2\)\(a\) and a new Article I\(2\)\(g\)\)}](#) [{C.G.E./Space Pr./1/W.P. 10 – Draft Report: Plenary Session \(Rome, 16 December 2003\)}](#) [{C.G.E. Space Pr./1/W.P. 21 – Report on the Drafting Committee}](#)

Before the conclusion of the first session, *Comments on the preliminary draft Protocol* were submitted by the delegation of India. In addition, *Proposals to the preliminary draft Protocol* were submitted by: the Space Working Group concerning debtor's rights and related rights; the Informal Working Group on Article XVII(4); the delegations of Argentina, France, Germany and Sweden concerning the public service problem; the delegations of Mexico concerning public services; the delegations of India concerning the relationship with Outer Space Treaties; and the delegation of the United States of America and Germany concerning the relationship with Outer Space Treaties. [{C.G.E. Space Pr./1/W.P. 12 – Comments \(by the delegation of India\)}](#)[{C.G.E. Space Pr./1/W.P. 13 – Proposal for the application of the Convention and the Space Assets Protocol to debtor's rights and related rights \(by the Space Working Group\)}](#)[{C.G.E. Space Pr./1/W.P. 14 – Draft report \(Plenary Session, 17 December 2003\)}](#)[{C.G.E. Space Pr./1/W.P. 15 – Proposal \(by the Informal Working Group on Article XVII\(4\)\)}](#)[{C.G.E. Space Pr./1/W.P. 16 – Proposal \(by the Space Working Group at the request of the Chairman of the Committee on this issue of components\)}](#)[{C.G.E. Space Pr./1/W.P. 17 – Proposal \(by the delegations of Argentina, France, Germany and Sweden concerning the public service problem\)}](#)[{C.G.E. Space Pr./1/W.P. 18 – Proposal \(by the delegations of Mexico concerning public services\)}](#)[{C.G.E. Space Pr./1/W.P. 19 – Draft report \(Plenary Session, 18 December 2003\)}](#)[{C.G.E. Space Pr./1/W.P. 20 – Proposal \(by the delegation of India concerning the relationship with Outer Space Treaties\)}](#)[{C.G.E. Space Pr./1/W.P. 22 – Draft report \(Plenary](#)

[Session, 19 December 2003\)}](#)[{C.G.E. Space Pr./1/W.P. 23 – Proposal \(by the delegation of the United States of America and Germany concerning the relationship with Outer Space Treaties\)}](#)

2004:

In February 2004, the Secretariat prepared a full *Report* on the Committee of governmental experts' first session, which detailed the delegations' comments, emphasises, and concerns related to the preliminary draft Protocol. [{C.G.E. Space Pr./1/Report – Report \(prepared by the UNIDROIT Secretariat\)}](#)

A *Colloquium on the preliminary draft Protocol to the Convention* was held in Kuala Lumpur on 22 and 23 April 2004. UNIDROIT, in co-operation with the Malaysian National Space Agency and the Space Working Group, organized the colloquium to provide representatives of Government and the international commercial aerospace and financial communities in Asia and Asia-Pacific region with an opportunity to discuss practical implications of the key issues raised by the Convention as implemented by the preliminary draft Protocol. [{C.G.E./Space Pr./2/W.P. 5 – The preliminary draft Protocol to the Cape Town Convention on International Interest in Mobile Equipment on Matters specific to Space Assets: An opportunity for representatives of government and industry to compare notes \(A colloquium organised by UNIDROIT in co-operation with the Malaysian National Space Agency and the Space Working Group, Kuala Lumpur, 22 / 23 April 2004\): Summary report \(prepared by the UNIDROIT Secretariat\)}](#) [{Study LXXII J – Doc. 13 rev. – Preliminary draft Protocol on Matters specific to Space Assets \(as revised by the UNIDROIT Committee of governmental experts for the preparation of a draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets during its first session, held in Rome from 15 to 19 December 2003\) \(Rome, 2004\)}](#)

In response to the Secretariat's request for comments on the issues selected in the proposed agenda (C.G.E./Space Pr./2/W.P. 1 – Draft Agenda), Comments were submitted by: the Government of the United States of America, the Government of Senegal, the Government of Portugal, and the Government of the People's Democratic Republic of Algeria. [{C.G.E./Space Pr./2/W.P. 6 – Comments by the Government of the United States of America}](#)[{C.G.E./Space Pr./2/W.P. 7 – Comments by the Government of Senegal}](#)[{C.G.E./Space Pr./2/W.P. 8 – Comments by the Government of Portugal}](#)[{C.G.E./Space Pr./2/W.P. 9 – Comments by the Government of the People's Democratic Republic of Algeria}](#)

The Committee of governmental experts held its second session in Rome from 26 to 28 October 2004. The Secretariat directed this Committee to use the second session as an opportunity for the representatives of Government and Industry to focus on issues of practical viability of the preliminary draft Protocol (instead of proceeding to a second reading thereof). Thus, the Secretariat proposed that the second session be principally devoted to in-depth discussion between the representatives on key issues arising under the preliminary draft Protocol not agreed upon during the first session. Mindful of the Secretariat's suggestions, a revised text of the preliminary draft Protocol was issued. [{C.G.E./Space Pr./2/W.P. 1 – Draft Agenda}](#) [{C.G.E./Space Pr./2/W.P. 2 – Explanatory note to the draft agenda}](#) [{C.G.E./Space](#)

[Pr./2/W.P. 3 – Preliminary draft Protocol on Matters specific to Space Assets \(as revised by UNIDROIT Committee of governmental experts for the preparation of a draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets during its first session, held in Rome from 15 to 19 December 2003\)](#) {C.G.E./Space Pr./2/W.P. 10 – Draft report, Plenary Session, 26 October 2004} {C.G.E./Space Pr./2/W.P. 12 – Draft report, Plenary Session, 27 October 2004}

The Space Working Group submitted their *Proposal for the application of the Convention and its preliminary draft Protocol to debtor’s rights and related rights*. The Proposal contained new definitions for “debtor’s rights,” “related rights,” “rights assignment,” “rights security agreement,” and new Article IV provisions. [{C.G.E./Space Pr./2/W.P. 4 – Proposal for the application of the Convention and the Space Assets Protocol to debtor’s rights and related rights \(by the Space Working Group\)}](#)

In 2004, the Secretariat prepared a full Report on the second session, which detailed the delegations’ comments, emphasises, and concerns related to the preliminary draft Protocol. [{C.G.E./Space Pr./2/Report – Report \(prepared by the UNIDROIT Secretariat\)}](#)

2008:

To build consensus, the UNIDROIT General Assembly met in Rome on 29 November 2007 and established the *Steering Committee to build consensus around the provisional conclusions regarding the preliminary draft Protocol to the Convention on Matters specific to Space Assets reached by the Government/industry meeting held in New York on 19 and 20 June 2007* (hereinafter referred to as the *Steering Committee*). Representatives of 11 of the Governments serving on the Committee of governmental experts and 18 representatives of the international commercial space and financial communities, as well as three observers, inter alia representing one other Government serving on the Committee of governmental experts, participated in its deliberations. [{Study LXXII J – Doc. 14 – Summary report on the Steering Committee to build consensus around the provisional conclusions reached by the Government/industry meeting regarding the preliminary draft Space Assets Protocol held in New York on 19 and 20 June 2007. Launch meeting, Berlin, 7/9 May 2008 \(prepared by the UNIDROIT Secretariat\)}](#)

In light of different views expressed on the issue of default remedies in relation to components at its first meeting, the Steering Committee established a *Sub-committee on the question of default remedies in relation to components*. This Sub-committee met in Berlin on 31 October and 1 November 2008. [{Study LXXII J – Doc. 15 - Summary report on the sub-committee of the Steering Committee to build consensus around the provisional conclusions reached by the Government/industry meeting held in New York on 19 and 20 June 2007 on default remedies in relation to components, Berlin, 31 October/1 November 2008 \(prepared by the UNIDROIT Secretariat\)}](#)

2009:

The Committee of governmental experts established a *Sub-committee to develop a proposal relating to the future international registration system for space assets*. This Sub-committee, open to all interested delegations, worked between the second and third session of the Committee of governmental experts via electronic communication using a web forum created by the International Telecommunication Union. The Sub-committee considered three issues: (1) the identification of space assets and related matter; (2) the practical operation of the future International Registry; and (3) the role of the Supervisory Authority. [{C.G.E./Space Pr./S.C.I.R.S./W.P. 1 – Draft Agenda \(prepared by the UNIDROIT Secretariat\)}](#) [{C.G.E./Space Pr./S.C.I.R.S./W.P. 2 – Introductory note \(prepared by the UNIDROIT Secretariat\)}](#)

Only two delegations, the Governments of the Czech Republic and the United Kingdom, posted comments on the Sub-committee's web forum. In response to the inactivity, the Secretariat sent out a questionnaire to representatives that participated in a Government/industry forum, organized by UNIDROIT and the Space Working Group. The Bank of Scotland in London hosted this forum on 24 April 2006, to discuss the key outstanding issues related to the preliminary draft Protocol. The Secretariat prepared an Interim Report based on the responses received to this questionnaire. [{C.G.E./Space Pr./S.C.I.R.S./W.P. 3 – Preliminary summary of the responses received as of 19 October to the questionnaire on suitable identification criteria for the new categories of space asset referred to in Article I\(2\)\(k\) of the alternative text of the preliminary draft Space Protocol implementing the policy recommendations of the UNIDROIT Steering Committee, prepared by Professor Sir Roy Goode and Mr. J.M. Deschamps \(prepared by the UNIDROIT Secretariat\)}](#)

The Steering Committee elected to establish a *Sub-committee to develop options for a solution to the problem of public service* – a problem essentially consisting in how best to balance the need of Governments to guarantee the continuation of a public service performed by a space asset where the debtor was in default, on the one hand, with the rights of the creditor upon such default under the Convention as applied to space assets, on the other - that might be laid before the Committee of governmental experts' next session. This Sub-committee met, under the auspices of Crédit Agricole S.A., on the premises of Gide Loyrette Nouel, in Paris, on 13 May 2009. [{Study LXXII J – Doc. 16 – Summary report on the Steering Committee to build consensus around the provisional conclusions reached by the Government/industry meeting held in New York on 19 and 20 June 2007: Sub-committee on public service, Paris, 13 May 2009 \(prepared by the UNIDROIT Secretariat\)}](#)

The Steering Committee met for a second time in Paris, under the auspices of the European Centre for Space Law (E.C.S.L.), on 14 and 15 May 2009. The meeting was attended by the representatives of 12 of the Governments serving on the Committee of governmental experts, 28 representatives of the international commercial space and financial communities and eight experts attending in their personal capacity. [{Study LXXII J – Doc. 17 – Summary Report on the Steering Committee to build consensus around the provisional conclusions reached by the Government/industry meeting regarding the preliminary draft Space Assets Protocol held in New York on 19 and 20 June 2007. Second meeting, Paris, 14/15 May 2009 \(prepared by the UNIDROIT Secretariat\)}](#)

At its third session, held in Rome from 7 to 11 December 2009, the Committee of governmental experts considered two drafts of the preliminary draft Protocol: (1) the preliminary draft Protocol as it emerged from the first session of the Committee of governmental experts (hereinafter referred to as *the current draft*); and (2) an alternative preliminary draft Protocol prepared by Professor Sir Roy Goode and Mr J.M. Deschamps to reflect the conclusions reached by the Steering Committee at its second session (hereinafter referred to as *the alternative text*). [{C.G.E./Space Pr./3/W.P. 4 – Preliminary draft Protocol on Matters specific to Space Assets \(as revised by the UNIDROIT Committee of governmental experts for the preparation of a draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets during its first session, held in Rome from 15 to 19 December 2003\)}](#) [{C.G.E./Space Pr./3/W.P. 5 rev. – Alternative text of the preliminary draft Space Protocol as prepared, at the request of the Steering Committee, for presentation to the Committee of Governmental Experts. Explanatory referred to and examined by the Steering Committee, by Professor Sir Roy Goode and Mr Michel Deschamps}](#) [{C.G.E./Space Pr./3/W.P. 3 – Convention on international interests in mobile equipment \(opened for signature in Cape Town on 16 November 2001\)}](#) [{C.G.E./Space Pr./3/W.P. 1 rev. – Revised draft agenda \(prepared by the UNIDROIT Secretariat\)}](#) [{C.G.E./Space Pr./3/W.P. 2 rev. – Revised explanatory note on the background to, and the draft agenda for the session \(prepared by the UNIDROIT Secretariat\)}](#)

The Secretariat, at the request of the Chairman of that Committee, prepared a comparative table of the text of the current draft and the alternative text. [{C.G.E./Space Pr./3/W.P. 6 rev. – Comparative table of text of the preliminary draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets \(as revised by the Committee of Governmental Experts during its first session \(UNIDROIT 2009 C.G.E. Space Pr./3/W.P. 4\)\) and the alternative test of the preliminary draft Protocol implementing the conclusions reached by the Steering Committee on those policy issues referred to intersessional work by the Committee of governmental experts at its second session \(prepared, at the request of the Steering Committee, by Professor Sir Roy Goode and Mr Michel Deschamps \(UNIDROIT 2009 C.G.E. Space Pr./3/W.P. 5 rev.\)\) \(prepared by the UNIDROIT Secretariat\)}](#)

The Secretariat prepared a *Report on the first meeting of the Sub-committee to examine certain aspects of the future international registration system for space assets*, held in Rome from 26 to 27 October 2009. [{C.G.E./Space Pr./3/W.P. 7 rev. – Report on the first meeting of the Sub-Committee to examine certain aspects of the future international registration system for space assets, Rome, 26/27 October 2009 \(prepared by the UNIDROIT Secretariat\)}](#)

Professor Sir Roy Goode and Mr Michel Deschamps submitted an *Explanatory Memorandum on technical amendments in the alternative text*. The purpose of this Explanatory Memorandum was to explain the technical additions and amendments to the alternative text, several of which derived from lessons learned at the Luxembourg diplomatic Conference in February 2007. [{C.G.E./Space Pr./3/W.P. 8 rev. – Alternative text of the preliminary draft Space Protocol incorporating technical amendments, for presentation to the Committee of Governmental Experts. Explanatory memorandum on technical amendments in the alternative text, by Professor Sir Roy Goode and Mr Michel Deschamps}](#)

The Committee of governmental experts set up the *Informal Working Group on default remedies in relation to components* on 7 December 2009. This Informal Working Group held four meetings during the third-session and representatives from the following States participated in its work: France, Germany, Italy, Japan, the United Kingdom (which chaired the meetings) and the United States of America. While considerable progress was made, this Informal Working Group sought authorization from the Committee of governmental experts to continue its work through informal consultation after the third-session. [{C.G.E./Space Pr./3/W.P. 24 – Report on the work of the Informal Working Group on default remedies in relation to components}](#)

On 8 December 2009, the *International Telecommunication Union* submitted a Statement to clarify questions relating to the space assets definition and identification. [{C.G.E./Space Pr./3/W.P. 16 – Statement made by the International Telecommunication Union \(ITU\)}](#)

The *National Space Agency of the Ukraine* submitted a Position Paper after its consideration of the current draft and the alternative draft. The Secretariat reproduced this paper on 9 December 2009. [{C.G.E./Space Pr./3/W.P. 18 – Position Paper \(submitted by the National Space Agency of Ukraine\)}](#)

The Secretariat received *Comments* and *Proposals* on the current draft and the alternative draft from Governments, Organizations, and representatives of the international commercial space, financial and insurance communities. The Secretariat reproduced the Comments and Proposals submitted by: the Government of Lebanon, Mr S. Kozuka, Ms P.L. Meredith, Co-chair of the Space Law Practice Group, on behalf of the leading space insurance underwriters, the SKY Perfect JSAT Corporation, the Government of the United Kingdom, the Government of the People's Republic of China, the Government of Canada, the Government of Sudan, the Government of Canada, and Intelsat and SES. [{C.G.E./Space Pr./3/W.P. 9 – Comments submitted by the Government of Lebanon, Mr S. Kozuka \(Sophia University, Tokyo\), Ms P.L. Meredith \(Co-Chair, Space Law Practice Group, Zuckert Scoutt & Rasenberger, L.L.P., Washington D.C.\), on behalf of leading space insurance underwriters, and the SKY Perfect JSAT Corporation}](#) [{C.G.E./Space Pr./3/W.P. 10 – Comments and proposal on Article 1\(2\)\(k\) of the alternative text submitted by Mr S. Kozuka \(Sophia University, Tokyo\)}](#) [{C.G.E./Space Pr./3/W.P. 11 – Comments on the alternative text submitted by the Government of the People's Republic of China}](#) [{C.G.E./Space Pr./3/W.P. 12 – Comments submitted by the Government of the United Kingdom}](#) [{C.G.E./Space Pr./3/W.P. 13 – Comments on the alternative text submitted by the Government of Canada}](#) [{C.G.E./Space Pr./3/W.P. 14 – Comments on the alternative text submitted by the Government of Sudan}](#) [{C.G.E./Space Pr./3/W.P. 19 – Comments on the alternative text submitted by Intelsat and SES}](#)

The *Drafting Committee* met in Rome from 8 to 10 December 2009 and agreed to take the alternative text as a basis for its work. The delegations represented on this Committee were: Canada, the People's Republic of China, France, the Russian Federation, Senegal, the United Kingdom and the United States of America. The Drafting Committee agreed on multiple amendments to the alternative text. [{C.G.E./Space Pr./3/W.P. 20 rev. – Report of the Drafting Committee}](#)

The Committee of governmental experts set up the *Informal Working Group on limitations on remedies* on 9 December 2009. This Informal Working Group held four meetings on 10 December 2009 and representatives from Canada, the Czech Republic, the People's Republic of China, France, Germany, Greece, India, Italy, Japan, Spain and the United States of America participated in its work. Ms M. Leimbach (Crédit Agricole S.A.) and Mr B. Schmidt-Tedd (German Space Agency) participated as observers. The meetings were chaired by the Secretary-General of UNIDROIT. The Secretariat prepared a Report on the work of the Informal Working Group on limitations on remedies, which set out proposals for new articles to both the preliminary draft Protocol and the alternative text. [{C.G.E./Space Pr./3/W.P. 23 – Report on the work of the Informal Working Group on limitations on remedies}](#)

The Secretariat prepared *Summary Reports* for each day of the third session (7/11 December 2009). [{C.G.E./Space Pr./3/W.P. 15 – Summary Report for 7 December 2009}](#) [{C.G.E./Space Pr./3/W.P. 17 – Summary Report for 8 December 2009}](#) [{C.G.E./Space Pr./3/W.P. 21 – Summary Report for 9 December 2009}](#) [{C.G.E./Space Pr./3/W.P. 22 – Summary Report for 10 December 2009}](#) [{C.G.E./Space Pr./3/W.P. 25 – Summary Report for 11 December 2009}](#) [{C.G.E./Space Pr./3/W.P. 26 – Summary Report for 11 December 2009 \(afternoon\)}](#)

In December 2009, a revised, full report on the third session was published. [{C.G.E./Space Pr./3/Report rev. – Report}](#)

2010:

On 3 February 2010, the Secretariat sent out letters to Mr Raymond Benjamin, Secretary-General of the International Civil Aviation Organization (I.C.A.O.), Captain Esteban Pachavicente, Director-General of the International Mobile Satellite Organization (I.M.S.O.), and Mr Hamadoun Touré, Secretary-General of the International Telecommunication Union (I.T.U.), to enquire about their potential suitability for the role of Supervisory Authority of the international registration system for space assets to be established under the future Space Protocol. The Secretariat prepared a report on the responses received. [{C.G.E./Space Pr./4/W.P. 5 – Report on the responses to the enquiries made of potential candidates to exercise the functions of Supervisory Authority of the international registration system for space assets to be established under the future Protocol \(prepared by the UNIDROIT Secretariat\)}](#)

The Secretariat circulated a revised preliminary draft Protocol between 18 to 23 February 2010 and invited comments thereon for consideration by the Committee of governmental experts at its fourth session. As of 28 April 2010, the Secretariat received comments from: the Governments of the People's Republic of China, the Czech Republic, Greece and Japan, and other individuals on behalf of their delegation. The *Comments and Proposals submitted by governments and government delegations* were reproduced by the Secretariat (Comments submitted by the Government of Spain were later provided). [{C.G.E./Space Pr./4/W.P. 4 rev. – Comments submitted by the Governments of the People's, and the Republic of China, the Czech Republic, Greece, Japan and the Czech Republic, as well as comments submitted by the international commercial space, financial and insurance communities, Aviareto and Mr S. Kozuka, who represented the Government of Japan at the third session of the Committee, Mr](#)

[P.B. Larsen, who represented the International Institute of Space Law and Ms L. Ravillon \(Professor of Law in the University of Bourgogne and Dean of the Faculty of Law of Dijon\) in their personal capacity](#) [{C.G.E./Space Pr./4/W.P. 4 rev. Add. 1 – Comments submitted by the Government of Spain}](#)

The Committee of governmental experts held its fourth session in Rome from 3 to 7 May 2010. The primary goal of this session was to consider the revised version of the preliminary draft Protocol, which was prepared by Professor Sir Roy Goode and J.M. Deschamps to reflect the conclusions reached by the Drafting Committee and the Committee of governmental experts at its third session. The Committee of governmental experts further considered the question of Supervisory Authority of the future international registry system and reviewed reports and other business. [{C.G.E./Space Pr./4/W.P. 1 rev. – Revised draft agenda \(prepared by the Secretariat\)}](#) [{C.G.E./Space Pr./4/W.P. 2 rev. – Explanatory note on the revised draft agenda for the session \(prepared by the UNIDROIT Secretariat\)}](#)

The revised preliminary draft Protocol – used at the fourth session – was drafted on the basis of the *alternative text of the preliminary draft Protocol incorporating proposals for certain technical amendments* (C.G.E./Space Pr./3/W.P. 8 rev.). The Secretariat prepared this revised text, incorporating comments received from Drafting Committee representatives from the People’s Republic of China and the Russian Federation. [{C.G.E./Space Pr./4/W.P. 3 rev. – Revised version of the preliminary draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets \(as prepared by Professor Sir Roy Goode \(United Kingdom\) and Mr J.M. Deschamps \(Canada\), as Co-chairmen of the Drafting Committee – to reflect the conclusions reached by the Committee of Governmental experts at its third session, held in Rome from 7 to 11 December 2009, and to incorporate drafting improvements – and as reviewed by the Drafting Committee\). Explanatory memorandum on drafting amendments \(prepared by Professor Sir Roy Goode and Mr Deschamps\)}](#)

The delegations of Japan, Canada, and the United Kingdom presented a single *Proposal for a new Article XIII(1)* on the first day of the fourth session. [{C.G.E./Space Pr./4/W.P. 7 – Proposal for a new Article XIII\(1\) \(presented by the delegations of Japan, Canada and the United Kingdom\)}](#)

The Drafting Committee met three different times during the session to consider amendments to document C.G.E./Space Pr./4/W.P. 3 rev. Professor Sir Roy Goode and Mr Michel Deschamps acted as co-Chairmen and the following delegations were represented: Canada, the People’s Republic of China, Nigeria, the Russian Federation, Senegal, the United Kingdom and the United States of America. Ms Martine Leimbach (Credit Agricole S.A.) and Ms Pamela Meredith (Zuckert Scoutt & Rasenberger L.L.P.) participated as observers. The Secretariat produced an *Interim report of the Drafting Committee* and a full *Report* to highlight the Drafting Committee’s proposed revisions. [{C.G.E./Space Pr./4/W.P. 10 – Interim report of the Drafting Committee}](#)

The *Informal Working Group on limitations on remedies* held two meetings on 5 and 6 May 2010. Representatives of the following States participated in its work: Algeria, Canada, the Czech Republic, the People’s Republic of China, France, Germany, Italy, Japan and the United

States of America. Ms C. Dubreuil (EADS Astrium), Mr O. Heinrich (BHO Legal Partnership), Ms M. Leimbach (Crédit Agricole S.A.) and Mr B. Schmidt-Tedd (German Space Agency) participated as observers. The Informal Working Group's discussion proposal presented two technical approaches to one concept for future consideration by the Committee of governmental experts. [{C.G.E./Space Pr./4/W.P. 13 – Report on the work of the informal Working Group on limitations on remedies \(prepared by the UNIDROIT Secretariat\)}](#) [{C.G.E./Space Pr./4/W.P. 14 – Report of the Drafting Committee}](#)

On 6 May 2010, the delegation of the United States submitted a *Proposal for a new Article XXXVII bis and a new Article XXXVIII bis*, which requested that Articles 50 and 54(1) not apply with respect to space assets. [{C.G.E./Space Pr./4/W.P. 11 – Proposal for a new Article XXXVII bis and a new Article XXXVIII bis \(presented by the delegation of the United States of America\)}](#)

The Secretariat prepared *Summary Reports* for each day of the fourth session in May 2010. [{C.G.E./Space Pr./4/W.P. 6 – Summary report for 3 May 2010 \(prepared by the UNIDROIT Secretariat\)}](#) [{C.G.E./Space Pr./4/W.P. 8 – Summary report for 4 May 2010 \(prepared by the UNIDROIT Secretariat\)}](#) [{C.G.E./Space Pr./4/W.P. 9 – Summary report for 5 May 2010 \(prepared by the UNIDROIT Secretariat\)}](#) [{C.G.E./Space Pr./4/W.P. 12 – Summary report for 6 May 2010 \(prepared by the UNIDROIT Secretariat\)}](#) [{C.G.E./Space Pr./4/W.P. 15 – Summary report for 7 May 2010}](#)

Subsequently, a full report on the fourth session was prepared by the Secretariat. [{C.G.E./Space Pr./4/Report – Report \(prepared by the UNIDROIT Secretariat\)}](#)

To ensure timely completion of the planned Protocol, the *Informal Working Group on default remedies in relation to components* and the *Informal Working Group on limitations on remedies* held intersessional consultations with representatives of the international commercial space and financial communities. [{C.G.E./Space Pr./Inters'l meetings/Consultns/W.P. 1 – Draft agenda \(prepared by the UNIDROIT Secretariat\)}](#) [{C.G.E./Space Pr./Inters'l meetings/Consultns/W.P. 2 – Explanatory note on the draft agenda \(prepared by the UNIDROIT Secretariat\)}](#)

The Secretariat sent out invitations in July 2010 to Governments and representatives of the international commercial and financial communities to attend consultations with representatives of those communities in respect of the revised preliminary draft Protocol from the fourth session of the Committee of governmental experts. *Sky Perfect JSAT Corporation* was the first to respond to the Secretariat, providing Comments in October 2010. [{C.G.E./Space Pr./Inters'l meetings/Consultns/W.P. 3 – Comments submitted by SKY Perfect JSAT Corporation}](#)

Subsequently to the Comments submitted with a view to the consultations with representatives of the international commercial space and financial communities in respect of the revised preliminary draft Protocol, reproduced in [C.G.E./Space Pr./Inters'l meetings/consultns/W.P.3](#), the Secretariat received additional Comments from: the United States of America, Arianespace, EADS Astrium, Eutelsat Communications and Thales Alenia Space,

and the Satellite Industry Association of the United States of America. {C.G.E./Space Pr./Inters'l meetings/Consultns/W.P. 3 Add. 1 – Comments submitted by the Government of the United States of America} {C.G.E./Space Pr./Inters'l meetings/Consultns/W.P. 3 Add. 2 – Comments submitted by Arianespace, EADS Astrium, Eutelsat Communications and Thales Alenia Space} {C.G.E./Space Pr./Inters'l meetings/Consultns/W.P. 3. Add. 3 – Comments submitted by Satellite Industry Association of the United States of America}

At the conclusion of its fourth session, the Committee of governmental experts decided that an *intersessional meeting of the Informal Working Group on default remedies in relation to components* should be held in Rome before the Committee's fifth session. This meeting was held on 19/20 October 2010. {C.G.E./Space Pr./Inters'l meetings/I.W.G. Components/W.P. 1 – Draft agenda (prepared by the UNIDROIT Secretariat)} {C.G.E./Space Pr./Inters'l meetings/I.W.G. Components/W.P. 2 – Explanatory note on the draft agenda (prepared by the UNIDROIT Secretariat)}

At its intersessional meeting, the *Informal Working Group on default remedies in relation to components* received Proposals from the Governments of Germany and Japan. {C.G.E./Space Pr./Inters'l meetings/I.W.G. Components/W.P. 3 – Proposals by the Government of Germany} {C.G.E./Space Pr./Inters'l meetings/I.W.G. Components/W.P. 4 – Proposals by the Government of Japan}

On 20 and 21 October 2010, the *Informal Working Group on limitations on remedies* participated in the intersessional meeting before the Committee of governmental experts' fifth session in Rome. At this meeting, the Informal Working Group on limitation on remedies reported its progress achieved to date. {C.G.E./Space Pr./Inters'l meetings/I.W.G. Limitations on remedies/W.P. 1 – Draft agenda (prepared by the UNIDROIT Secretariat)} {C.G.E./Space Pr./Inters'l meetings/I.W.G. Limitations on remedies/W.P. 2 rev. – Explanatory not on the draft agenda (prepared by the UNIDROIT Secretariat)}

Mrs A. Veneziano (Italy) and Mr M. Borello (Thales Alenia Space), who acted as co-moderators of the *Intersessional consultations with representatives of the international commercial space and financial communities*, provided the first Report on intersessional work to the Committee. [{C.G.E./Space Pr./5/W.P. 4 – Intersessional consultations with representatives of the international commercial space and financial communities \(Rome, 18 October 2010\): Report \(prepared by the UNIDROIT Secretariat\)}](#)

Subsequently, in November 2010, the Secretariat prepared Reports on the *Intersessional meeting of the Informal Working Group on default remedies in relation to components* and the *Intersessional meeting of the informal working group on limitations on remedies* to be reviewed by the Committee at its fifth session. [{C.G.E./Space Pr./5/W.P. 5 – Intersessional meeting of the Informal Working Group on default remedies in relation to components \(Rome, 19/21 October 2010\): Report \(prepared by the UNIDROIT Secretariat\)}](#) [{C.G.E./Space Pr./5/W.P. 6 – Intersessional meeting of the Informal Working Group of the Committee on limitations on remedies \(Rome, 20/21 October 2010\): Report \(prepared by the UNIDROIT Secretariat\)}](#)

2011:

The Secretariat, at her invitation, received *Comments on the revised Preliminary Draft Protocol (as amended by the Committee of governmental experts at its fourth session)* from Governments, Organizations and representatives of the international commercial space, financial and insurance communities. As of 26 January 2011, Comments were submitted by: the Governments of Australia and the United States of America; and the Asia-Pacific Satellite Communications Council (A.P.S.C.C.) [{C.G.E./Space Pr./5/W.P. 7 – Comments submitted by the Governments of Australia and the United States of America and the Asia-Pacific Satellite Communications Council \(A.P.S.C.C.\)}](#)

The Secretariat subsequently received additional *Comments and Proposals on the revised preliminary draft Protocol* from: Italy and Japan; the United States of America; and Ms Pamela Meredith, Zuckert Scoutt & Rasenberger, L.L.P. [{C.G.E./Space Pr./5/W.P. 7 Add. 1 – Comments submitted by the Governments of Italy and Japan}](#) [{C.G.E./Space Pr./5/W.P. 7 Add. 2 – Comments submitted by the Government of the United States of America}](#) [{C.G.E./Space Pr./5/W.P. 7 Add. 3 – Comments submitted by Ms Pamela Meredith, Zuckert Scoutt & Rasenberger, L.L.P.}](#)

In February 2011, the delegation of the United States of America presented a *Proposal for a new Article XVI (economic realisation of interests; step-in operators)* and a *Proposal for a new alternative A of Article XXII: Alternative to the application of national law*. [{C.G.E./Space Pr./5/W.P. 8 – Proposal for a new Article XVI \(Economic realisation of interests; step-in operators\) \(presented by the delegation of the United States of America\)}](#) [{C.G.E./Space Pr./5/W.P. 9 – Proposal for a new alternative A of Article XXII: alternative to the application of national law \(presented by the delegation of the United States of America\)}](#)

On 20 February 2011, at the seat of UNIDROIT, an *extraordinary meeting of the Drafting Committee of the Committee of governmental experts* was held in Rome. The purpose of this meeting was to complete the work that the Drafting Committee was asked to do on Article IV(5) of the preliminary draft Protocol but was not able to complete at the Committee of governmental experts' fourth session. The Drafting Committee recommended new Articles, amendments, and deletions. [{C.G.E./Space Pr./5/W.P. 10 – Drafting Committee \(extraordinary meeting: Rome, 20 February 2011\): Report \(prepared by the UNIDROIT Secretariat\)}](#)

The Committee of governmental experts held its fifth session in Rome, from 21 to 25 February 2011. The main business at this session was to consider the revised preliminary draft Protocol from the Committee's fourth session, *inter alia* in the light of, the intersessional consultations and meetings discussed above. [{C.G.E./Space Pr./5/W.P. 1 - Draft agenda \(prepared by the UNIDROIT Secretariat\)}](#) [{C.G.E./Space Pr./5/W.P. 2 – Explanatory note on the draft agenda for the session \(prepared by the UNIDROIT Secretariat\)}](#) [{C.G.E./Space Pr./5/W.P. 3 – Text of the revised preliminary draft Protocol to the Cape Town Convention on Matters specific to Space Assets as amended by the UNIDROIT Committee of governmental experts for the preparation of a draft Protocol to the Cape Town Convention on Matters specific to Space Assets at its fourth session, held in Rome from 3 to 7 May 2010}](#)

The delegation of Mexico submitted a Proposal for new Articles I(2)(f) and IX(2) on the first day of the Committee of governmental experts' fifth session. [{C.G.E./Space Pr./5/W.P. 11 – Proposal for a new Article I\(2\)\(f\) \(presented by the delegation of Mexico\)}](#) [{C.G.E./Space Pr./5/W.P. 12 – Proposal for a new Article IX\(2\) \(presented by the delegation of Mexico\)}](#)

On 22 February 2011, the *Informal Working Group on limitation on remedies* met to implement the conclusion reached by the Committee earlier that day in consideration of the Article XVII *bis*. This Informal Working Group agreed to propose to the Committee that a new definition of “public services provider” be inserted in Article I(2). [{C.G.E./Space Pr./5/W.P. 16 – Proposal by the Informal Working Group on limitations on remedies}](#)

The *Informal Working Group on default remedies in relation to components* held five meetings during the fifth session, on 22, 23, 24, and 25 February 2011. This Informal Working Group agreed on three Options for dealing with the problem of limitation on remedies for physically linked space assets. {C.G.E./Space Pr./5/W.P. 23 – Report by the Informal Working Group on default remedies in relation to components (prepared by the UNIDROIT Secretariat)}

The delegation of Canada submitted a *Proposal for a new Article XXVII(2)*, then a *Proposal for a new Article XXVI(2)* to reflect the amendments agreed by the Committee to be necessary. [{C.G.E./Space Pr./5/W.P. 14 – Proposal for a new Article XXVII\(2\) \(presented by the delegation of Canada\)}](#) [{C.G.E./Space Pr./5/W.P. 14 rev. – Proposal for a new Article XXVI\(2\) \(presented by the delegation of Canada as revised to reflect the amendments agreed by the Committee to be necessary\)}](#)

On 23 February 2011, the *observer of the German Space Agency* presented a Proposal for a new Article III and the *delegation of the People's Republic of China* presented a Proposal for a new Article XVIII. [{C.G.E./Space Pr./5/W.P. 17 – Proposal for a new Article III \(presented by the observer of the German Space Agency\)}](#) [{C.G.E./Space Pr./5/W.P. 18 – Proposal for a new Article XVIII \(presented by the delegation of the People's Republic of China\)}](#)

The *Drafting Committee* produced a Proposal and a Report on the text of the revised preliminary draft Protocol for the Committee of governmental experts' consideration. An *Addendum to the Report of the Drafting Committee* was submitted thereafter. {C.G.E./Space Pr./5/W.P. 20 – Proposals by the Drafting Committee. Text of the revised preliminary draft Protocol to the Cape Town Convention on Matters specific to Space Assets as amended by the UNIDROIT Committee of governmental experts for the preparation of a draft Protocol to the Cape Town Convention on Matters specific to Space Assets at its fourth session, held in Rome from 3 to 7 May 2010} {C.G.E./Space Pr./5/W.P. 21 – Report of the Drafting Committee. Text of the revised preliminary draft Protocol to the Cape Town Convention on Matters specific to Space Assets as amended by the UNIDROIT Committee of governmental experts for the preparation of a draft Protocol to the Cape Town Convention on Matters specific to Space Assets at its fourth session, held in Rome from 3 to 7 May 2010 - 24 February 2011} {C.G.E./Space Pr./5/W.P. 21 Add. – Addendum to the Report of the Drafting Committee}

The Secretariat prepared *Summary Reports* for each day of the fifth session in February 2011. [{C.G.E./Space Pr./5/W.P. 13 – Summary report for 21 February 2011 \(prepared by the UNIDROIT Secretariat\)}](#) [{C.G.E./Space Pr./5/W.P. 15 – Summary report for 22 February 2011 \(prepared by the UNIDROIT Secretariat\)}](#) [{C.G.E./Space Pr./5/W.P. 19 – Summary report for 23 February 2011 \(prepared by the UNIDROIT Secretariat\)}](#) [{C.G.E./Space Pr./5/W.P. 22 – Summary report for 24 February 2011 \(prepared by the UNIDROIT Secretariat\)}](#) [{C.G.E./Space Pr./5/W.P. 24 – Summary report for 25 February 2011 \(prepared by the UNIDROIT Secretariat\)}](#)

In March 2011, the Secretariat prepared a full *Report* on the fifth session. [{C.G.E./Space Pr./5/Report – Report \(prepared by the UNIDROIT Secretariat\)}](#)