APPENDIX I

CONVENTION

ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT

Signed at Cape Town on 16 November 2001

CAPE TOWN

16 NOVEMBER 2001
CONVENTION
ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT

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 efficient manner,

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,

MINDFUL of the need to ensure that interests in such equipment are recognised and protected universally,

DESIRING to provide broad and mutual economic benefits for all interested parties,

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,

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,

TAKING INTO CONSIDERATION the objectives and principles enunciated in existing Conventions relating to such equipment,

HAVE AGREED upon the following provisions:

CHAPTER I

SPHERE OF APPLICATION AND GENERAL PROVISIONS

Article 1 — Definitions

In this Convention, except where the context otherwise requires, the following terms are employed with the meanings set out below:
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(a) “agreement” means a security agreement, a title reservation agreement or a leasing agreement;

(b) “assignment” means a contract which, whether by way of security or otherwise, confers on the assignee associated rights with or without a transfer of the related international interest;

(c) “associated rights” means all rights to payment or other performance by a debtor under an agreement which are secured by or associated with the object;

(d) “commencement of the insolvency proceedings” means the time at which the insolvency proceedings are deemed to commence under the applicable insolvency law;

(e) “conditional buyer” means a buyer under a title reservation agreement;

(f) “conditional seller” means a seller under a title reservation agreement;

(g) “contract of sale” means a contract for the sale of an object by a seller to a buyer which is not an agreement as defined in (a) above;

(h) “court” means a court of law or an administrative or arbitral tribunal established by a Contracting State;

(i) “creditor” means a chargee under a security agreement, a conditional seller under a title reservation agreement or a lessor under a leasing agreement;

(j) “debtor” means a chargor under a security agreement, a conditional buyer under a title reservation agreement, a lessee under a leasing agreement or a person whose interest in an object is burdened by a registrable non-consensual right or interest;

(k) “insolvency administrator” means a person authorised to administer the reorganisation or liquidation, including one authorised on an interim basis, and includes a debtor in possession if permitted by the applicable insolvency law;

(l) “insolvency proceedings” means bankruptcy, liquidation or other collective judicial or administrative proceedings, including interim proceedings, in which the assets and affairs of the debtor are subject to control or supervision by a court for the purposes of reorganisation or liquidation;

(m) “interested persons” means:

(i) the debtor;

(ii) any person who, for the purpose of assuring performance of any of the obligations in favour of the creditor, gives or issues a suretyship or demand guarantee or a standby letter of credit or any other form of credit insurance;
(iii) any other person having rights in or over the object;

(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);

(o) “international interest” means an interest held by a creditor to which Article 2 applies;

(p) “International Registry” means the international registration facilities established for the purposes of this Convention or the Protocol;

(q) “leasing agreement” means an agreement by which one person (the lessor) grants a right to possession or control of an object (with or without an option to purchase) to another person (the lessee) in return for a rental or other payment;

(r) “national interest” means an interest held by a creditor in an object and created by an internal transaction covered by a declaration under Article 50(1);

(s) “non-consensual right or interest” means a right or interest conferred under the law of a Contracting State which has made a declaration under Article 39 to secure the performance of an obligation, including an obligation to a State, State entity or an intergovernmental or private organisation;

(t) “notice of a national interest” means notice registered or to be registered in the International Registry that a national interest has been created;

(u) “object” means an object of a category to which Article 2 applies;

(v) “pre-existing right or interest” means a right or interest of any kind in or over an object created or arising before the effective date of this Convention as defined by Article 60(2)(a);

(w) “proceeds” means money or non-money proceeds of an object arising from the total or partial loss or physical destruction of the object or its total or partial confiscation, condemnation or requisition;

(x) “prospective assignment” means an assignment that is intended to be made in the future, upon the occurrence of a stated event, whether or not the occurrence of the event is certain;
(y) “prospective international interest” means an interest that is intended to be created or provided for in an object as an international interest in the future, upon the occurrence of a stated event (which may include the debtor’s acquisition of an interest in the object), whether or not the occurrence of the event is certain;

(z) “prospective sale” means a sale which is intended to be made in the future, upon the occurrence of a stated event, whether or not the occurrence of the event is certain;

(aa) “Protocol” means, in respect of any category of object and associated rights to which this Convention applies, the Protocol in respect of that category of object and associated rights;

(bb) “registered” means registered in the International Registry pursuant to Chapter V;

(cc) “registered interest” means an international interest, a registrable non-consensual right or interest or a national interest specified in a notice of a national interest registered pursuant to Chapter V;

(dd) “registrable non-consensual right or interest” means a non-consensual right or interest registrable pursuant to a declaration deposited under Article 40;

(ee) “Registrar” means, in respect of the Protocol, the person or body designated by that Protocol or appointed under Article 17(2)(b);

(ff) “regulations” means regulations made or approved by the Supervisory Authority pursuant to the Protocol;

(gg) “sale” means a transfer of ownership of an object pursuant to a contract of sale;

(hh) “secured obligation” means an obligation secured by a security interest;

(ii) “security agreement” means an agreement by which a chargor grants or agrees to grant to a chargee an interest (including an ownership interest) in or over an object to secure the performance of any existing or future obligation of the chargor or a third person;

(jj) “security interest” means an interest created by a security agreement;

(kk) “Supervisory Authority” means, in respect of the Protocol, the Supervisory Authority referred to in Article 17(1);

(ll) “title reservation agreement” means an agreement for the sale of an object on terms that ownership does not pass until fulfilment of the condition or conditions stated in the agreement;
“unregistered interest” means a consensual interest or non-consensual right or interest (other than an interest to which Article 39 applies) which has not been registered, whether or not it is registrable under this Convention; and

“writing” means a record of information (including information communicated by teletransmission) which is in tangible or other form and is capable of being reproduced in tangible form on a subsequent occasion and which indicates by reasonable means a person’s approval of the record.

**Article 2 — The international interest**

1. This Convention provides for the constitution and effects of an international interest in certain categories of mobile equipment and associated rights.

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:

   (a) granted by the chargor under a security agreement;

   (b) vested in a person who is the conditional seller under a title reservation agreement; or

   (c) vested in a person who is the lessor under a leasing agreement.

An interest falling within sub-paragraph (a) does not also fall within sub-paragraph (b) or (c).

3. The categories referred to in the preceding paragraphs are:

   (a) airframes, aircraft engines and helicopters;

   (b) railway rolling stock; and

   (c) space assets.

4. The applicable law determines whether an interest to which paragraph 2 applies falls within subparagraph (a), (b) or (c) of that paragraph.

5. An international interest in an object extends to proceeds of that object.
Article 3 — Sphere of application

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.

2. The fact that the creditor is situated in a non-Contracting State does not affect the applicability of this Convention.

Article 4 — Where debtor is situated

1. For the purposes of Article 3(1), the debtor is situated in any Contracting State:
   (a) under the law of which it is incorporated or formed;
   (b) where it has its registered office or statutory seat;
   (c) where it has its centre of administration; or
   (d) where it has its place of business.

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.

Article 5 — Interpretation and applicable law

1. In the interpretation of this Convention, regard is to be had to its purposes as set forth in the preamble, to its international character and to the need to promote uniformity and predictability in its application.

2. Questions concerning matters governed by this Convention which are not expressly settled in it are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the applicable law.

3. References to the applicable law are to the domestic rules of the law applicable by virtue of the rules of private international law of the forum State.

4. Where a State comprises several territorial units, each of which has its own rules of law in respect of the matter to be decided, and where there is no indication of the relevant territorial unit, the law of that State decides which is the territorial unit whose rules shall govern. In the absence of any such rule, the law of the territorial unit with which the case is most closely connected shall apply.
Article 6 — Relationship between the Convention and the Protocol

1. This Convention and the Protocol shall be read and interpreted together as a single instrument.

2. To the extent of any inconsistency between this Convention and the Protocol, the Protocol shall prevail.

Chapter II

Constitution of an International Interest

Article 7 — Formal requirements

An interest is constituted as an international interest under this Convention where the agreement creating or providing for the interest:

(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.

Chapter III

Default Remedies

Article 8 — Remedies of chargee

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:

(a) take possession or control of any object charged to it;

(b) sell or grant a lease of any such object;
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(c) collect or receive any income or profits arising from the management or use of any such object.

2. The chargee may alternatively apply for a court order authorising or directing any of the acts referred to in the preceding paragraph.

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.

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:
   (a) interested persons specified in Article 1(m)(i) and (ii); and
   (b) interested persons specified in Article 1(m)(iii) who have given notice of their rights to the chargor within a reasonable time prior to the sale or lease.

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.

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.

**Article 9 — Vesting of object in satisfaction; redemption**

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.

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.
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.

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 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.

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.

Article 10 — Remedies of conditional seller or lessor

In the event of default under a title reservation agreement or under a leasing agreement as provided in Article 11, the conditional seller or the lessor, as the case may be, may:

(a) subject to any declaration that may be made by a Contracting State under Article 54, terminate the agreement and take possession or control of any object to which the agreement relates; or

(b) apply for a court order authorising or directing either of these acts.

Article 11 — Meaning of default

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.

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.
Article 12 — Additional remedies

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.

Article 13 — Relief pending final determination

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:

   (a) preservation of the object and its value;

   (b) possession, control or custody of the object;

   (c) immobilisation of the object; and

   (d) lease or, except where covered by sub-paragraphs (a) to (c), management of the object and the income therefrom.

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:

   (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

   (b) fails to establish its claim, wholly or in part, on the final determination of that claim.

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.

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.

Article 14 — Procedural requirements

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.
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Article 15 — Derogation

In their relations with each other, any two or more of the parties referred to in this Chapter may at any time, by agreement in writing, derogate from or vary the effect of any of the preceding provisions of this Chapter except Articles 8(3) to (6), 9(3) and (4), 13(2) and 14.

CHAPTER IV

THE INTERNATIONAL REGISTRATION SYSTEM

Article 16 — The International Registry

1. An International Registry shall be established for registrations of:
   (a) international interests, prospective international interests and registrable non-consensual rights and interests;
   (b) assignments and prospective assignments of international interests;
   (c) acquisitions of international interests by legal or contractual subrogations under the applicable law;
   (d) notices of national interests; and
   (e) subordinations of interests referred to in any of the preceding sub-paragraphs.

2. Different international registries may be established for different categories of object and associated rights.

3. For the purposes of this Chapter and Chapter V, the term “registration” includes, where appropriate, an amendment, extension or discharge of a registration.

Article 17 — The Supervisory Authority and the Registrar

1. There shall be a Supervisory Authority as provided by the Protocol.

2. The Supervisory Authority shall:
   (a) establish or provide for the establishment of the International Registry;
   (b) except as otherwise provided by the Protocol, appoint and dismiss the Registrar;
(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;

(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;

(e) establish administrative procedures through which complaints concerning the operation of the International Registry can be made to the Supervisory Authority;

(f) supervise the Registrar and the operation of the International Registry;

(g) at the request of the Registrar, provide such guidance to the Registrar as the Supervisory Authority thinks fit;

(h) set and periodically review the structure of fees to be charged for the services and facilities of the International Registry;

(i) do all things necessary to ensure that an efficient notice-based electronic registration system exists to implement the objectives of this Convention and the Protocol; and

(j) report periodically to Contracting States concerning the discharge of its obligations under this Convention and the Protocol.

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).

4. The Supervisory Authority shall own all proprietary rights in the data bases and archives of the International Registry.

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.

CHAPTER V

OTHER MATTERS RELATING TO REGISTRATION

Article 18 — Registration requirements

1. The Protocol and regulations shall specify the requirements, including the criteria for the identification of the object:
(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);

(b) for making searches and issuing search certificates, and, subject thereto;

(c) for ensuring the confidentiality of information and documents of the International Registry other than information and documents relating to a registration.

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.

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.

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.

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.

**Article 19 — Validity and time of registration**

1. A registration shall be valid only if made in conformity with Article 20.

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.

3. A registration shall be searchable for the purposes of the preceding paragraph at the time when:

   (a) the International Registry has assigned to it a sequentially ordered file number; and

   (b) the registration information, including the file number, is stored in durable form and may be accessed at the International Registry.
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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.

5. The preceding paragraph applies with necessary modifications to the registration of a prospective assignment of an international interest.

6. A registration shall be searchable in the International Registry data base according to the criteria prescribed by the Protocol.

Article 20 — Consent to registration

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.

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.

3. A registration may be discharged by or with the consent in writing of the party in whose favour it was made.

4. The acquisition of an international interest by legal or contractual subrogation may be registered by the subrogee.

5. A registrable non-consensual right or interest may be registered by the holder thereof.

6. A notice of a national interest may be registered by the holder thereof.

Article 21 — Duration of registration

Registration of an international interest remains effective until discharged or until expiry of the period specified in the registration.
Article 22 — Searches

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.

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:
   (a) stating all registered information relating thereto, together with a statement indicating the date and time of registration of such information; or
   (b) stating that there is no information in the International Registry relating thereto.

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.

Article 23 — List of declarations and declared non-consensual rights or interests

The Registrar shall maintain a list of declarations, withdrawals of declaration and of the categories of nonconsensual right or interest communicated to the Registrar by the Depositary as having been declared by Contracting States in conformity with Articles 39 and 40 and the date of each such declaration or withdrawal of declaration. Such list shall be recorded and searchable in the name of the declaring State and shall be made available as provided in the Protocol and regulations to any person requesting it.

Article 24 — Evidentiary value of certificates

A document in the form prescribed by the regulations which purports to be a certificate issued by the International Registry is prima facie proof:
   (a) that it has been so issued; and
   (b) of the facts recited in it, including the date and time of a registration.
Article 25 — Discharge of registration

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.

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.

3. Where the obligations secured by a national interest specified in a registered notice of a national interest have been discharged, 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.

4. Where a registration ought not to have been made or is incorrect, the person in whose 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.

Article 26 — Access to the international registration facilities

No person shall be denied access to the registration and search facilities of the International Registry on any ground other than its failure to comply with the procedures prescribed by this Chapter.
CHAPTER VI

PRIVILEGES AND IMMUNITIES OF
THE SUPERVISORY AUTHORITY AND THE REGISTRAR

Article 27 — Legal personality; immunity

1. The Supervisory Authority shall have international legal personality where not already possessing such personality.

2. The Supervisory Authority and its officers and employees shall enjoy such immunity from legal or administrative process as is specified in the Protocol.

3. (a) The Supervisory Authority shall enjoy exemption from taxes and such other privileges as may be provided by agreement with the host State.

   (b) For the purposes of this paragraph, “host State” means the State in which the Supervisory Authority is situated.

4. The assets, documents, data bases and archives of the International Registry shall be inviolable and immune from seizure or other legal or administrative process.

5. For the purposes of any claim against the Registrar under Article 28(1) or Article 44, the claimant shall be entitled to access to such information and documents as are necessary to enable the claimant to pursue its claim.

6. The Supervisory Authority may waive the inviolability and immunity conferred by paragraph 4.

CHAPTER VII

LIABILITY OF THE REGISTRAR

Article 28 — Liability and financial assurances

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.
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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.

3. Compensation under paragraph 1 may be reduced to the extent that the person who suffered the damage caused or contributed to that damage.

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.

CHAPTER VIII

EFFECTS OF AN INTERNATIONAL INTEREST AS AGAINST THIRD PARTIES

Article 29 — Priority of competing interests

1. A registered interest has priority over any other interest subsequently registered and over an unregistered interest.

2. The priority of the first-mentioned interest under the preceding paragraph applies:
   (a) even if the first-mentioned interest was acquired or registered with actual knowledge of the other interest; and
   (b) even as regards value given by the holder of the first-mentioned interest with such knowledge.

3. The buyer of an object acquires its interest in it:
   (a) subject to an interest registered at the time of its acquisition of that interest; and
   (b) free from an unregistered interest even if it has actual knowledge of such an interest.

4. The conditional buyer or lessee acquires its interest in or right over that object:
   (a) subject to an interest registered prior to the registration of the international interest held by its conditional seller or lessor; and
(b) free from an interest not so registered at that time even if it has actual knowledge of that interest.

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.

6. Any priority given by this Article to an interest in an object extends to proceeds.

7. This Convention:
   (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
   (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.

**Article 30 — Effects of insolvency**

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.

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.

3. Nothing in this Article affects:
   (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
   (b) any rules of procedure relating to the enforcement of rights to property which is under the control or supervision of the insolvency administrator.
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CHAPTER IX

ASSIGNMENTS OF ASSOCIATED RIGHTS AND INTERNATIONAL INTERESTS;
RIGHTS OF SUBROGATION

Article 31 — Effects of assignment

1. Except as otherwise agreed by the parties, an assignment of associated rights made in conformity with Article 32 also transfers to the assignee:

   (a) the related international interest; and
   (b) all the interests and priorities of the assignor under this Convention.

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.

3. Subject to paragraph 4, the applicable law shall determine the defences and rights of set-off available to the debtor against the assignee.

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.

5. In the case of an assignment by way of security, the assigned associated rights vest in the assignor, to the extent that they are still subsisting, when the obligations secured by the assignment have been discharged.

Article 32 — Formal requirements of assignment

1. An assignment of associated rights transfers the related international interest only if it:

   (a) is in writing;
   (b) enables the associated rights to be identified under the contract from which they arise; and
   (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.
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.

3. This Convention does not apply to an assignment of associated rights which is not effective to transfer the related international interest.

**Article 33 — Debtor's duty to assignee**

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:

   (a) the debtor has been given notice of the assignment in writing by or with the authority of the assignor; and

   (b) the notice identifies the associated rights.

2. Irrespective of any other ground on which payment or performance by the debtor discharges the latter from liability, payment or performance shall be effective for this purpose if made in accordance with the preceding paragraph.

3. Nothing in this Article shall affect the priority of competing assignments.

**Article 34 — Default remedies in respect of assignment by way of security**

In the event of default by the assignor under the assignment of associated rights and the related international interest made by way of security, Articles 8, 9 and 11 to 14 apply in the relations between the assignor and the assignee (and, in relation to associated rights, apply in so far as those provisions are capable of application to intangible property) as if references:

(a) to the secured obligation and the security interest were references to the obligation secured by the assignment of the associated rights and the related international interest and the security interest created by that assignment;

(b) to the chargee or creditor and chargor or debtor were references to the assignee and assignor;

(c) to the holder of the international interest were references to the assignee; and
APPENDIX I

(d) to the object were references to the assigned associated rights and the related international interest.

**Article 35 — Priority of competing assignments**

1. Where there are competing assignments of associated rights and at least one of the assignments includes the related international interest and is registered, the provisions of Article 29 apply as if the references to a registered interest were references to an assignment of the associated rights and the related registered interest and as if references to a registered or unregistered interest were references to a registered or unregistered assignment.

2. Article 30 applies to an assignment of associated rights as if the references to an international interest were references to an assignment of the associated rights and the related international interest.

**Article 36 — Assignee’s priority with respect to associated rights**

1. The assignee of associated rights and the related international interest whose assignment has been registered only has priority under Article 35(1) over another assignee of the associated rights:
   
   (a) if the contract under which the associated rights arise states that they are secured by or associated with the object; and
   
   (b) to the extent that the associated rights are related to an object.

2. For the purposes of sub-paragraph (b) of the preceding paragraph, associated rights are related to an object only to the extent that they consist of rights to payment or performance that relate to:
   
   (a) a sum advanced and utilised for the purchase of the object;
   
   (b) a sum advanced and utilised for the purchase of another object in which the assignor held another international interest if the assignor transferred that interest to the assignee and the assignment has been registered;
   
   (c) the price payable for the object;
   
   (d) the rentals payable in respect of the object; or
   
   (e) other obligations arising from a transaction referred to in any of the preceding subparagraphs.
3. In all other cases, the priority of the competing assignments of the associated rights shall be determined by the applicable law.

**Article 37 — Effects of assignor's insolvency**

The provisions of Article 30 apply to insolvency proceedings against the assignor as if references to the debtor were references to the assignor.

**Article 38 — Subrogation**

1. Subject to paragraph 2, nothing in this Convention affects the acquisition of associated rights and the related international interest by legal or contractual subrogation under the applicable law.

2. The priority between any interest within the preceding paragraph and a competing interest may be varied by agreement in writing between the holders of the respective 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.

**CHAPTER X**

**RIGHTS OR INTERESTS SUBJECT TO DECLARATIONS BY CONTRACTING STATES**

**Article 39 — Rights having priority without registration**

1. A Contracting State may at any time, in a declaration deposited with the Depositary of the Protocol declare, generally or specifically:

   (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
APPENDIX I

(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.

2. A declaration made under the preceding paragraph may be expressed to cover categories that are created after the deposit of that declaration.

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.

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.

Article 40 — Registrable non-consensual rights or interests

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 the right or interest were an international interest and shall be regulated accordingly. Such a declaration may be modified from time to time.

CHAPTER XI

APPLICATION OF THE CONVENTION TO SALES

Article 41 — Sale and prospective sale

This Convention shall apply to the sale or prospective sale of an object as provided for in the Protocol with any modifications therein.
CHAPTER XII

JURISDICTION

Article 42 — Choice of forum

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.

2. Any such agreement shall be in writing or otherwise concluded in accordance with the formal requirements of the law of the chosen forum.

Article 43 — Jurisdiction under Article 13

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.

2. Jurisdiction to grant relief under Article 13(1)(d) or other interim relief by virtue of Article 13(4) may be exercised either:
   (a) by the courts chosen by the parties; or
   (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.

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.

Article 44 — Jurisdiction to make orders against the Registrar

1. The courts of the place in which the Registrar has its centre of administration shall have exclusive jurisdiction to award damages or make orders against the Registrar.
2. Where a person fails to respond to a demand made under Article 25 and that person has ceased to exist or cannot be found for the purpose of enabling an order to be made against it requiring it to procure discharge of the registration, the courts referred to in the preceding paragraph shall have exclusive jurisdiction, on the application of the debtor or intending debtor, to make an order directed to the Registrar requiring the Registrar to discharge the registration.

3. Where a person fails to comply with an order of a court having jurisdiction under this Convention or, in the case of a national interest, an order of a court of competent jurisdiction requiring that person to procure the amendment or discharge of a registration, the courts referred to in paragraph 1 may direct the Registrar to take such steps as will give effect to that order.

4. Except as otherwise provided by the preceding paragraphs, no court may make orders or give judgments or rulings against or purporting to bind the Registrar.

**Article 45 — Jurisdiction in respect of insolvency proceedings**

The provisions of this Chapter are not applicable to insolvency proceedings.

**CHAPTER XIII**

**RELATIONSHIP WITH OTHER CONVENTIONS**

**Article 45 bis — Relationship with the United Nations Convention on the Assignment of Receivables in International Trade**

This Convention shall prevail over the United Nations Convention on the Assignment of Receivables in International Trade, opened for signature in New York on 12 December 2001, as it relates to the assignment of receivables which are associated rights related to international interests in aircraft objects, railway rolling stock and space assets.

**Article 46 — Relationship with the UNIDROIT Convention on International Financial Leasing**

Cape Town Convention

Chapter XIV

Final Provisions

Article 47 — Signature, ratification, acceptance, approval or accession

1. This Convention shall be open for signature in Cape Town on 16 November 2001 by States participating in the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol held at Cape Town from 29 October to 16 November 2001. After 16 November 2001, the Convention shall be open to all States for signature at the Headquarters of the International Institute for the Unification of Private Law (UNIDROIT) in Rome until it enters into force in accordance with Article 49.

2. This Convention shall be subject to ratification, acceptance or approval by States which have signed it.

3. Any State which does not sign this Convention may accede to it at any time.

4. Ratification, acceptance, approval or accession is effected by the deposit of a formal instrument to that effect with the Depositary.

Article 48 — Regional Economic Integration Organisations

1. A Regional Economic Integration Organisation which is constituted by sovereign States and has competence over certain matters governed by this Convention may similarly sign, accept, approve or accede to this Convention. 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 Convention. Where the number of Contracting States is relevant in this Convention, the Regional Economic Integration Organisation shall not count as a Contracting State in addition to its Member States which are Contracting States.

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 Convention 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 of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.
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3. Any reference to a “Contracting State” or “Contracting States” or “State Party” or “States Parties” in this Convention applies equally to a Regional Economic Integration Organisation where the context so requires.

Article 49 — Entry into force

1. This Convention enters into force on the first day of the month following the expiration of three months after the date of the deposit of the third instrument of ratification, acceptance, approval or accession but only as regards a category of objects to which a Protocol applies:

   (a) as from the time of entry into force of that Protocol;

   (b) subject to the terms of that Protocol; and

   (c) as between States Parties to this Convention and that Protocol.

2. For other States this Convention enters into force on the first day of the month following the expiration of three months after the date of the deposit of their instrument of ratification, acceptance, approval or accession but only as regards a category of objects to which a Protocol applies and subject, in relation to such Protocol, to the requirements of sub-paragraphs (a), (b) and (c) of the preceding paragraph.

Article 50 — Internal transactions

1. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that this Convention shall not apply to a transaction which is an internal transaction in relation to that State with regard to all types of objects or some of them.

2. Notwithstanding the preceding paragraph, the provisions of Articles 8(4), 9(1), 16, Chapter V, Article 29, and any provisions of this Convention relating to registered interests shall apply to an internal transaction.

3. Where notice of a national interest has been registered in the International Registry, the priority of the holder of that interest under Article 29 shall not be affected by the fact that such interest has become vested in another person by assignment or subrogation under the applicable law.
Article 51 — Future Protocols

1. The Depositary may create working groups, in co-operation with such relevant non-governmental organisations as the Depositary considers appropriate, to assess the feasibility of extending the application of this Convention, through one or more Protocols, to objects of any category of high-value mobile equipment, other than a category referred to in Article 2(3), each member of which is uniquely identifiable, and associated rights relating to such objects.

2. The Depositary shall communicate the text of any preliminary draft Protocol relating to a category of objects prepared by such a working group to all States Parties to this Convention, all member States of the Depositary, member States of the United Nations which are not members of the Depositary and the relevant intergovernmental organisations, and shall invite such States and organisations to participate in intergovernmental negotiations for the completion of a draft Protocol on the basis of such a preliminary draft Protocol.

3. The Depositary shall also communicate the text of any preliminary draft Protocol prepared by such a working group to such relevant non-governmental organisations as the Depositary considers appropriate. Such non-governmental organisations shall be invited promptly to submit comments on the text of the preliminary draft Protocol to the Depositary and to participate as observers in the preparation of a draft Protocol.

4. When the competent bodies of the Depositary adjudge such a draft Protocol ripe for adoption, the Depositary shall convene a diplomatic conference for its adoption.

5. Once such a Protocol has been adopted, subject to paragraph 6, this Convention shall apply to the category of objects covered thereby.

6. Article 45 bis of this Convention applies to such a Protocol only if specifically provided for in that Protocol.

Article 52 — Territorial units

1. If a Contracting State has territorial units in which different systems of law are applicable in relation to the matters dealt with in this Convention, it may, at the time of ratification, acceptance, approval or accession, declare that this Convention 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.
2. Any such declaration shall state expressly the territorial units to which this Convention applies.

3. If a Contracting State has not made any declaration under paragraph 1, this Convention shall apply to all territorial units of that State.

4. Where a Contracting State extends this Convention to one or more of its territorial units, declarations permitted under this Convention 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.

5. If by virtue of a declaration under paragraph 1, this Convention extends to one or more territorial units of a Contracting State:
   (a) the debtor is considered to be situated in a Contracting State only if it is incorporated or formed under a law in force in a territorial unit to which this Convention applies or if it has its registered office or statutory seat, centre of administration, place of business or habitual residence in a territorial unit to which this Convention applies;
   (b) any reference to the location of the object in a Contracting State refers to the location of the object in a territorial unit to which this Convention applies; and
   (c) any reference to the administrative authorities in that Contracting State shall be construed as referring to the administrative authorities having jurisdiction in a territorial unit to which this Convention applies.

**Article 53 — Determination of courts**

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.

**Article 54 — Declarations regarding remedies**

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.
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.

**Article 55 — Declarations regarding relief pending final determination**

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.

**Article 56 — Reservations and declarations**

1. No reservations may be made to this Convention but declarations authorised by Articles 39, 40, 50, 52, 53, 54, 55, 57, 58 and 60 may be made in accordance with these provisions.

2. Any declaration or subsequent declaration or any withdrawal of a declaration made under this Convention shall be notified in writing to the Depositary.

**Article 57 — Subsequent declarations**

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.

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.

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.
APPENDIX I

Article 58 — Withdrawal of declarations

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.

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.

Article 59 — Denunciations

1. Any State Party may denounce this Convention by notification in writing to the Depositary.

2. Any such denunciation shall take effect on the first day of the month following the expiration of twelve months after the date on which notification is received by the Depositary.

3. Notwithstanding the previous paragraphs, this Convention 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.

Article 60 — Transitional provisions

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.

2. For the purposes of Article 1(v) and of determining priority under this Convention:

   (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

   (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.

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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.

Article 61 — Review Conferences, amendments and related matters

1. The Depositary 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 this Convention 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.

2. At the request of not less than twenty-five per cent of the States Parties, Review Conferences of States Parties shall be convened from time to time by the Depositary, in consultation with the Supervisory Authority, to consider:

   (a) the practical operation of this Convention and its effectiveness in facilitating the asset-based financing and leasing of the objects covered by its terms;
   
   (b) the judicial interpretation given to, and the application made of the terms of this Convention and the regulations;
   
   (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
   
   (d) whether any modifications to this Convention or the arrangements relating to the International Registry are desirable.

3. Subject to paragraph 4, any amendment to this Convention 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 which have ratified, accepted or approved such amendment when ratified, accepted, or approved by three States in accordance with the provisions of Article 49 relating to its entry into force.
4. Where the proposed amendment to this Convention is intended to apply to more than one category of equipment, such amendment shall also be approved by at least a two-thirds majority of States Parties to each Protocol that are participating in the Conference referred to in paragraph 2.

Article 62 — Depositary and its functions

1. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Institute for the Unification of Private Law (UNIDROIT), which is hereby designated the Depositary.

2. The Depositary shall:
   (a) inform all Contracting States of:
       (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;
       (ii) the date of entry into force of this Convention;
       (iii) each declaration made in accordance with this Convention, together with the date thereof;
       (iv) the withdrawal or amendment of any declaration, together with the date thereof; and
       (v) the notification of any denunciation of this Convention together with the date thereof and the date on which it takes effect;
   (b) transmit certified true copies of this Convention to all Contracting States;
   (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
   (d) perform such other functions customary for depositaries.
CAPE TOWN CONVENTION

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

DONE at Cape Town, this sixteenth day of November, two thousand and one, in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic, such authenticity to take effect upon verification by the Joint Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the conformity of the texts with one another.
APPENDIX II

PROTOCOL

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

Signed in Berlin on 9 March 2012

BERLIN

9 MARCH 2012
PROTOCOL

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

THE STATES PARTIES TO THIS PROTOCOL,

CONSIDERING it desirable to implement the Convention on International Interests in Mobile Equipment (hereinafter referred to as the Convention) as it relates to space assets, in the light of the purposes set out in the preamble to the Convention,

CONSCIOUS 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,

TAKING INTO CONSIDERATION the benefits to all States from expanded space-based services and financing which the Convention and this Protocol may yield,

MINDFUL of the principles of space law, including those contained in the international space treaties of the United Nations and the instruments of the International Telecommunication Union,

RECALLING, for the carrying out of the transfers contemplated by this Protocol, the pre-eminence of State Party rights and obligations under the international space treaties of the United Nations by which the States Parties concerned are bound,

RECOGNISING the continuing development of the international commercial space industry and contemplating the expected benefits of a uniform and predictable regimen governing interests in space assets and in related rights and facilitating asset-based financing of the same,

HAVE AGREED upon the following provisions relating to space assets:

CHAPTER I

SPHERE OF APPLICATION AND GENERAL PROVISIONS

Article I – Defined terms

1. – In this Protocol, except where the context otherwise requires, terms used in it have the meanings set out in the Convention.
2. – In this Protocol the following terms are employed with the meanings set out below:

(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;

(b) “guarantee contract” means a contract entered into by a person as a guarantor;

(c) “guarantor” means a person who, for the purpose of assuring performance of 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;

(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;

(e) “licence” means any permit, authorisation, concession or equivalent instrument 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;

(f) “obligor” means a person from whom payment or other performance of debtor’s rights is due or to become due;

(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;

(h) “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 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;
SPACE PROTOCOL

(i) “rights reassignment” means:

   (i) 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; or

   (ii) a transfer of debtor's rights under Article XII(4)(a) of this
     Protocol;

(j) “space” means outer space, including the Moon and other celestial
    bodies; and

(k) “space asset” means any man-made uniquely identifiable asset in
    space or designed to be launched into space, and comprising

   (i) a spacecraft, such as a satellite, space station, space
    module, space capsule, space vehicle or reusable launch vehicle, whether or not
    including a space asset falling within (ii) or (iii) below;

   (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

   (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,

   together with all installed, incorporated or attached accessories, parts and equipment
   and all data, manuals and records relating thereto.

3. – For the purposes of the definition of “internal transaction” in Article
   1(n) of the Convention, a space asset, when not on Earth, is deemed located in the
   Contracting State which registers the space asset, or on the registry of which the space
   asset is carried, as a space object under one of the following:

   (a) 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;

   (b) the Convention on Registration of Objects Launched into Outer
       Space, signed at New York on 14 January 1975; or

   (c) United Nations General Assembly Resolution 1721 (XVI) B of 20
       December 1961.
4. – In Article 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:

(a) the Contracting State referred to in the preceding paragraph;

(b) a Contracting State which has issued a licence to operate the space asset; or

(c) a Contracting State on the territory of which a mission control centre for the space asset is located.

Article II – Application of the Convention as regards space assets, debtor’s rights and aircraft objects

1. – The Convention shall apply in relation to space assets, rights assignments and rights reassignments as provided by the terms of this Protocol.

2. – The Convention and this Protocol shall be known as the Convention on International Interests in Mobile Equipment as applied to space assets.

3. – This Protocol does not apply to objects falling within the definition of “aircraft objects” under the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment except where such objects are primarily designed for use in space, in which case this Protocol applies even while such objects are not in space.

4. – This Protocol does not apply to an aircraft object merely because it is designed to be temporarily in space.

Article III – Preservation of rights and interests in a space asset

Ownership of or another right or interest in a space asset shall not be affected by:

(a) the docking of the space asset with another space asset in space;

(b) the installation of the space asset on or the removal of the space asset from another space asset; or

(c) the return of the space asset from space.
Article IV – Application of the Convention to sales; salvage

1. – Article XL of this Protocol and 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:

   Articles 3 and 4;
   Article 16(1)(a);
   Article 19(4);
   Article 20(1) (as regards registration of a contract of sale or a prospective sale);
   Article 25(2) (as regards a prospective sale); and
   Article 30.

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) of the Convention shall apply to contracts of sale and prospective sales.

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.

3. – Nothing in the Convention or this Protocol affects any legal or contractual rights of an insurer to salvage recognised by the applicable law. “Salvage” means a legal or contractual right or interest in, relating to or derived from a space asset that vests in the insurer upon the payment of a loss relating to the space asset.

Article V – Formalities, effects and registration of contracts of sale

1. – For the purposes of this Protocol, a contract of sale is one which:

   (a) is in writing;
   (b) relates to a space asset of which the seller has power to dispose; and
APPENDIX II

(c) enables the space asset to be identified in conformity with this Protocol.

2. – A contract of sale transfers the interest of the seller in the space asset to the buyer according to its terms.

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.

Article VI – Representative capacities

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.

Article VII – Identification of space assets

1. – For the purposes of Article 7(c) of the Convention and Articles V and IX of this Protocol, a description of a space asset is sufficient to identify the space asset if it contains:

   (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.

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.

Article VIII – Choice of law

1. – This Article applies unless a Contracting State has made a declaration pursuant to Article XLI(2)(a) of this Protocol.
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.

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.

Article IX – Formal requirements for rights assignment

A transfer of debtor’s rights is constituted as a rights assignment where it is in writing and enables:

(a) the debtor’s rights the subject of the rights assignment to be identified;

(b) the space asset to which those rights relate to be identified; and

(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.

Article X – Effects of rights assignment

1. – A rights assignment made in conformity with Article IX of this Protocol transfers to the creditor the debtor’s rights the subject of the rights assignment to the extent permitted by the applicable law.

2. – Subject to paragraph 3, the applicable law shall determine the defences and rights of set-off available to the obligor against the creditor.

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.
Article XI – Assignment of future rights

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 new act of transfer.

Article XII – Recording of rights assignment or acquisition by subrogation as part of registration of international interest

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 recording 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.

2. – Articles 18, 19, 20(1)-(4), 25(1), (2) and (4) and 30 of the Convention apply in relation to a recording made in accordance with the preceding paragraph as if:

(a) references to an international interest were references to a rights assignment;

(b) references to registration were references to the recording of the rights assignment; and

(c) references to the debtor were references to the obligor.

3. – A search certificate issued under Article 22 of the Convention shall include the particulars recorded under paragraph 1.

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:

(a) all the rights of the creditor under the rights assignment; and

(b) the right to be shown in the record as assignee under the rights assignment.
5. – Discharge of the registration of an international interest also discharges any recording forming part of that registration under paragraph 1.

Article XIII – Priority of recorded rights assignment

1. – Subject to Article 29(6) of the Convention and paragraph 2 of the present Article, 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.

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 provided that the registration was still current immediately before the international interest was constituted as provided by Article 7 of the Convention.

Article XIV – Obligor’s duty to creditor

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, if and only if:

   (a) the obligor has been given notice of the rights assignment in writing by or with the authority of the debtor; and

   (b) the notice identifies the debtor’s rights.

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 deemed given with the authority of the debtor.

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.

4. – Nothing in this Article shall affect the priority of competing rights assignments.
APPENDIX II

Article XV – Rights reassignment

1. – Articles IX to XIV of this Protocol apply to a rights reassignment by the creditor or a subsequent assignee. Where those Articles so apply, any references made to the creditor or holder are references to the assignee or subsequent assignee.

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.

Article XVI – Derogation

The parties may, by agreement in writing, exclude the application of Article XXI of this Protocol and, in their relations with each other, derogate from or vary the effect of any of the provisions of this Protocol except Article XVII(1) and (2).

CHAPTER II
DEFAULT REMEDIES, PRIORITIES AND ASSIGNMENTS

Article XVII – Modification of default remedies provisions as regards space assets

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.

2. – A chargee giving fourteen or more calendar 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.

3. – Unless otherwise agreed, a creditor may not enforce an international interest in a space asset that is physically linked with another space asset so as to impair or interfere with the operation of the other space asset if an international interest or sale has been registered with respect to the other space asset prior to the
registration of the international interest being enforced. For the purposes of this paragraph, a sale or an interest equivalent to an international interest made or arising before the effective date of the Convention, as defined in Article XL of this Protocol, which is registered within three years from that date is deemed to be an international interest or a sale registered at the time of the constitution of the international interest or the sale, as the case may be.

**Article XVIII – Default remedies as regards rights assignments and rights reassignments**

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:

   (a) references to the secured obligations and to the security interest were references to the obligations secured by the rights assignment and to the security interest created by that assignment;

   (b) references to the object were references to the debtor’s rights.

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.

**Article XIX – Placement of data and materials**

Subject to Article XXVI of this Protocol, 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 an opportunity to take possession of, establish control over or operate the space asset.

**Article XX – Modification of provisions regarding relief pending final determination**

1. – This Article applies only where a Contracting State has made a declaration to that effect under Article XLI(3) of this Protocol and to the extent stated in such declaration.
2. – For the purposes of Article 13(1) of the Convention, “speedy” in the context of obtaining relief means within such number of calendar 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.

3. – Article 13(1) of the Convention applies with the following being added immediately after sub-paragraph (d):

“and (e) if at any time the debtor and the creditor specifically agree, sale and application of proceeds therefrom”,

and Article 43(2) of the Convention applies with the substitution of “Article 13” for the words “Article 13(1)(d) or other interim relief by virtue of Article 13(4)”.

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.

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.

Article XXI – Remedies on insolvency

1. – This Article applies only where a Contracting State that is the primary insolvency jurisdiction has made a declaration pursuant to Article XLI(4) of this Protocol.

Alternative A

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:

(a) the end of the waiting period; and

(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.

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:
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(a) the end of the waiting period; and
(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.

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.

5. – References in this Article to the “insolvency administrator” shall be to that person in its official, not its personal, capacity.

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:

(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

(b) the creditor shall be entitled to apply for any other forms of interim relief available under the applicable law.

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.

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.

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.

10. – No obligations of the debtor under the agreement may be modified without the consent of the creditor.

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.
APPENDIX II

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.

13. – The Convention as modified by Article XVII of this Protocol shall apply to the exercise of any remedies under this Article.

Alternative B

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 XLI(4) of this Protocol whether it will:

(a) cure all defaults other than a default constituted by the opening of insolvency proceedings and agree to perform all future obligations, under the agreement and related transaction documents; or

(b) give the creditor the opportunity to take possession of or control and operation over the space asset, in accordance with the applicable law.

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.

4. – The creditor shall provide evidence of its claims and proof that its international interest has been registered.

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.

6. – The space asset shall not be sold pending a decision by a court regarding the claim and the international interest.
Article XXII – Insolvency assistance

1. – This Article applies only where a Contracting State has made a declaration pursuant to Article XLI(2)(b) of this Protocol.

2. – The courts of a Contracting State: (i) in the territory of which the space asset is situated; (ii) from the territory of which the space asset may be controlled; (iii) in the territory of which the debtor is located; (iv) in the territory of which the space asset is registered; (v) which has issued 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 Article XXI of this Protocol.

Article XXIII – Modification of priority provisions

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.

2. – The buyer of a space asset under a registered sale acquires its interest in that asset subject to an interest previously registered.

Article XXIV – Modification of assignment provisions

Article 33(1) of the Convention applies with the following being added immediately after sub-paragraph (b):

“and (c) the debtor has consented in writing, whether or not the consent is given in advance of the assignment or identifies the assignee.”

Article XXV – Debtor provisions

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:

(a) its creditor and the holder of any interest from which the debtor takes free 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

(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.

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.

**Article XXVI – Preservation of powers of Contracting States**

1. This Protocol does not affect the exercise by a Contracting State of its authority to issue licences, approvals, permits or authorisations for the launch or operation of space assets or the provision of any service through the use or with the support of space assets.

2. This Protocol further does not:

(a) render transferable or assignable any licences, approvals, permits or authorisations which, in accordance with the laws and regulations of the granting Contracting State or the contractual or administrative provisions under which they are granted, may not be transferred or assigned;

(b) limit the right of a Contracting State to authorise the use of orbital positions and frequencies in relation to space assets; or

(c) affect the ability of a Contracting State in accordance with its laws and regulations to prohibit, restrict or attach conditions to the placement of command codes and related data and materials pursuant to Article XIX of this Protocol.

3. Nothing in this Protocol shall be construed so as to require a Contracting State to recognise or enforce an international interest in a space asset when the recognition or enforcement of such interest would conflict with its laws or regulations concerning:

(a) the export of controlled goods, technology, data and services; or

(b) national security.
Article XXVII – Limitations on remedies in respect of public service

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 or the Contracting State may register a public service notice.

2. – For the purposes of this Article:

(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 at the time of registration; and

(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.

3. – Subject to paragraph 9, 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 or Chapter II of this Protocol that would make the space asset unavailable for the provision of the relevant public service prior to the expiration of the period specified in a declaration by a Contracting State as provided by paragraph 4.

4. – A Contracting State shall at the time of ratification, acceptance, approval of, or accession to this Protocol specify by a declaration under Article XLI(1) a period for the purposes of the preceding paragraph not less than three months nor more than 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.

5. – Paragraph 3 does not affect the ability of a creditor, if so authorised by the relevant authorities, temporarily to operate or ensure the continued operation of a space asset during the period referred to in that paragraph where the debtor is not able to do so.

6. – The creditor shall promptly notify the debtor and the public services provider of the date of registration of its notice under paragraph 3 and of the date of expiry of the period referred to therein.
7. – During the period referred to in paragraph 3:

(a) the creditor, the debtor and the public services provider shall cooperate in good faith with a view to finding a commercially reasonable solution permitting the continuation of the public service;

(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, as appropriate, 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; and

(c) the creditor is not precluded from initiating proceedings with a view to the replacement of the debtor by another person as operator of the space asset concerned in accordance with the rules of the licensing authorities.

8. – Notwithstanding paragraphs 3 and 7, the creditor is free to exercise any of the remedies provided in Chapter III of the Convention or 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.

9. – Unless otherwise agreed, the limitation on the remedies of the creditor provided for in paragraph 3 shall not apply in respect of an international interest registered by a creditor prior to the registration of a public service notice pursuant to paragraph 1, where:

(a) the international interest was created pursuant to an agreement made before the conclusion of the contract with the public services provider referred to in paragraph 1; and

(b) at the time the international interest was registered in the International Registry, the creditor had no knowledge that such a public services contract had been entered into.

10. – The preceding paragraph does not apply if such public service notice is registered no later than six months after the initial launch of the space asset.
CHAPTER III
REGISTRY PROVISIONS RELATING TO INTERNATIONAL INTERESTS
IN SPACE ASSETS

Article XXVIII – The Supervisory Authority

1. – The Supervisory Authority shall be designated at, or pursuant to a resolution of, 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, provided that such Supervisory Authority is able and willing to act in such capacity.

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.

3. – The Supervisory Authority shall 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.

Article XXIX – First regulations

The first regulations shall be made by the Supervisory Authority so as to take effect on the entry into force of this Protocol.

Article XXX – Identification of space assets for registration purposes

A description of a space asset in accordance with the criteria for identification provided by the regulations is necessary and sufficient to identify the space asset for the purposes of registration in the International Registry.

Article XXXI – Designated entry points

A Contracting State may at any time designate an entity or entities in its territory as the entry point or entry points through which there shall or may be transmitted to the International Registry information required for registration other than registration of a notice of a national interest or a right or interest under Article 40 of the Convention in either case arising under the laws of another State.
APPENDIX II

Article XXXII – Additional modifications to Registry provisions

1. – Article 16 of the Convention applies with the following being added immediately after paragraph 1:

“1 bis The International Registry shall also provide for:

(a) the recording of rights assignments and rights reassignments;
(b) the recording of acquisitions of debtor’s rights by subrogation;
(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
(d) the registration of creditors’ notices under Article XXVII(4) of the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets.”.

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.

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 or the person in whose favour a prospective sale has been registered shall take such steps as are within its power to procure the discharge of the registration no later than ten calendar days after the receipt of the demand described in such paragraph.

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.

5. – The centralised functions of the International Registry shall be operated and administered by the Registrar on a twenty-four hour basis.

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.

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.
CHAPTER IV
JURISDICTION

Article XXXIII – Waiver of sovereign immunity

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.

2. – A waiver under the preceding paragraph must be in writing and contain a description of the space asset in accordance with Article VII of this Protocol.

CHAPTER V
RELATIONSHIP WITH OTHER CONVENTIONS

Article XXXIV – Relationship with the UNIDROIT Convention on International Financial Leasing

The Convention as applied to space assets shall supersede the UNIDROIT Convention on International Financial Leasing in respect of the subject matter of this Protocol, as between States Parties to both Conventions.

Article XXXV – Relationship with the United Nations outer space treaties and instruments of the International Telecommunication Union

The Convention as applied to space assets shall not affect State Party rights and obligations under the existing United Nations outer space treaties or instruments of the International Telecommunication Union.
APPENDIX II

CHAPTER VI
FINAL PROVISIONS

Article XXXVI – Signature, ratification, acceptance, approval or accession

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 Rome until it enters into force in accordance with Article XXXVIII.

2. – This Protocol shall be subject to ratification, acceptance or approval by States which have signed it.

3. – Any State which does not sign this Protocol may accede to it at any time.

4. – Ratification, acceptance, approval or accession is effected by the deposit of a formal instrument to that effect with the Depositary.

5. – A State may not become a Party to this Protocol unless it is or becomes also a Party to the Convention.

Article XXXVII – Regional Economic Integration Organisations

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.

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.

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.

**Article XXXVIII – Entry into force**

1. – This Protocol enters into force between the States which have deposited instruments referred to in sub-paragraph (a) on the later of:

   (a) the first day of the month following the expiration of three months after the date of the deposit of the tenth instrument of ratification, acceptance, approval or accession; and

   (b) the date of the deposit by the Supervisory Authority with the Depositary of a certificate confirming that the International Registry is fully operational.

2. – For other States this Protocol enters into force on the first day of the month following the later of:

   (a) the expiration of three months after the date of the deposit of their instrument of ratification, acceptance, approval or accession; and

   (b) the date referred to in sub-paragraph (b) of the preceding paragraph.

**Article XXXIX – Territorial units**

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.

2. – Any such declaration shall state expressly the territorial units to which this Protocol applies.

3. – If a Contracting State has not made any declaration under paragraph 1, this Protocol shall apply to all territorial units of that State.
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.

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.

6. – If a Contracting State has a federal system where the federal legislative power has competence over matters governed by this Protocol, that Contracting State shall have the same rights and obligations over those matters as those Contracting States which do not have a federal system.

**Article XL – Transitional provisions**

1. – Article 60 of the Convention shall not apply in relation to space assets.

2. – Subject to the second sentence of Article XVII(3) of this Protocol, the Convention does not apply to a right or interest of any kind in or over a space asset created or arising before the effective date of the Convention, which retains the priority it enjoyed under the applicable law before the effective date of the Convention.

3. – For the purposes of this Protocol:

   (a) “effective date of the Convention” means in relation to a debtor the time when the Convention enters into force or the time when the State in which the debtor is situated at the time the right or interest is created or arises becomes a Contracting State, whichever is the later; and

   (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.
Article XLI – Declarations relating to certain provisions

1. – A Contracting State shall, at the time of ratification, acceptance, approval of, or accession to this Protocol, make a declaration pursuant to Article XXVII(4) of this Protocol.

2. – A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare:

   (a) that it will not apply Article VIII;

   (b) that it will apply Article XXII.

3. – 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.

4. – 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.

5. – 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.

Article XLII – Declarations under the Convention

Declarations made under the Convention, including those made under Articles 39, 40, 53, 54, 55, 57 and 58 of the Convention, shall be deemed to have also been made under this Protocol unless stated otherwise.

Article XLIII – Reservations and declarations

1. – No reservations may be made to this Protocol but declarations authorised by Articles XXXIX, XLI, XLII and XLIV may be made in accordance with these provisions.
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2. – Any declaration, subsequent declaration or any withdrawal of a declaration made under this Protocol shall be notified in writing to the Depositary.

Article XLIV – Subsequent declarations

1. – A State Party may make a subsequent declaration at any time after the date on which this Protocol has entered into force for it, by notifying the Depositary to that effect.

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.

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.

Article XLV – Withdrawal of declarations

1. – Any State Party having made a declaration under this Protocol 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.

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.

Article XLVI – Denunciations

1. – Any State Party may denounce this Protocol by notification in writing to the Depositary.

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.
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.

**Article XLVII – Review Conferences, amendments and related matters**

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.

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:

   (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;

   (b) the judicial interpretation given to, and the application made of the terms of this Protocol and the regulations;

   (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

   (d) whether any modifications to this Protocol or the arrangements relating to the International Registry are desirable.

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 ten States Parties in accordance with the provisions of Article XXXVIII relating to its entry into force.
APPENDIX II

Article XLVIII – Depositary and its functions

1. – Instruments of ratification, acceptance, approval or accession shall be deposited with the International Institute for the Unification of Private Law (UNIDROIT), which is hereby designated the Depositary.

2. – The Depositary shall:

   (a) inform all Contracting States of:

       (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

       (ii) the date of entry into force of this Protocol;

       (iii) each declaration made in accordance with this Protocol, together with the date thereof;

       (iv) the withdrawal or amendment of any declaration, together with the date thereof; and

       (v) the notification of any denunciation of this Protocol together with the date thereof and the date on which it takes effect;

   (b) transmit certified true copies of this Protocol to all Contracting States;

   (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

   (d) perform such other functions customary for depositaries.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorised, have signed this Protocol.

DONE at Berlin, this ninth day of March, two thousand and twelve, in a single original in the English and French languages, both texts being equally authentic, such authenticity to take effect upon verification by the Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the consistency of the texts with one another.

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of 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 at the invitation of the Government of the Federal Republic of Germany and under the auspices of the International Institute for the Unification of Private Law (UNIDROIT) in Berlin from 27 February to 9 March 2012

The Plenipotentiaries at 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 met in Berlin, at the invitation of the Government of the Federal Republic of Germany and under the auspices of the International Institute for the Unification of Private Law (UNIDROIT), from 27 February to 9 March 2012 for the purpose of considering the draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets, prepared by a UNIDROIT Committee of governmental experts.

Representatives of the Governments of 40 States participated in the Conference.

The representatives of the Governments of the following 34 States presented credentials in due and proper form:

Brazil, the Federative Republic of Iraq, the Republic of
Burkina Faso Ireland
Canada Italy, the Republic of
China, the People’s Republic of Japan
Czech Republic, the Latvia, the Republic of
DENMARK, the Kingdom of Luxembourg, the Grand Duchy of
French Republic, the Madagascar, the Republic of
Germany, the Federal Republic of Mexican States, the United
Ghana, the Republic of Nigeria, the Federal Republic of
India, the Republic of Pakistan, the Islamic Republic of
Indonesia, the Republic of Republic of Korea, the
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Russian Federation, the Turkey, the Republic of
Saudi Arabia, the Kingdom of United Kingdom of Great Britain and
Senegal, the Republic of Northern Ireland, the
Slovenia, the Republic of United States of America, the
South Africa, the Republic of Yemen, the Republic of
Spain, the Kingdom of Zimbabwe, the Republic of
Sudan, the Republic of the

The following six States also participated in the Conference:

Albania, the Republic of Malawi, the Republic of
Colombia, the Republic of Portuguese Republic, the
Iran, the Islamic Republic of Republic of Moldova, the

The following Regional Economic Integration Organisation was represented:

European Union

The following four intergovernmental Organisations were represented by observers:

European Space Agency (ESA)
Intergovernmental Organisation for International Carriage by Rail (OTIF)
International Civil Aviation Organization (ICAO)
International Telecommunication Union (ITU)

The following five international non-governmental Organisations were represented by observers:

Aviation Working Group (AWG)
European Satellite Operators Association (ESOA)
International Bar Association (IBA)
International Institute of Space Law (IISL)
Rail Working Group (RWG)

A certain number of technical advisers attended.

The Conference elected as President Mr Herbert Kronke (Germany) and further elected as Vice-Presidents:

Mr Harold S. Burman (United States of America)
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Mr Maurice Gourdault-Montagne (France)
Mr Igor E. Manylov (Russian Federation)
Rev. Makhenkesi Stofile (South Africa)
Mr Tang Wenhong (People’s Republic of China)

The Secretariat of the Conference was as follows:
Secretary General - Mr José Angelo Estrella Faria, Secretary-General of UNIDROIT
Executive Secretary - Mr Martin Stanford, Deputy Secretary-General of UNIDROIT
Deputy Secretary - Ms Marina Schneider, Senior Officer of UNIDROIT
Assistant Secretary - Mr Daniel Porras, Associate Officer of UNIDROIT

The Conference established a Commission of the Whole. The Conference elected Mr Sergio Marchisio (Italy) as Chairman of the Commission of the Whole, which appointed Sir Roy Goode (United Kingdom) as Reporter. The Conference established the following Committees:

Credentials Committee
Chairman: Mr Eric Zoungrana (Burkina Faso)
Members: Burkina Faso
France
Germany
Japan
Russian Federation

Drafting Committee
Chairman: Mr Michel Deschamps (Canada)
Members: Canada
China
France
Germany
Japan
Nigeria
Pakistan
Russian Federation
United States of America
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Final Clauses Committee

Chairperson: Ms Neeru Chadha (India)

Members: Canada
          Czech Republic
          France
          Germany
          India
          South Africa
          United States of America

Observers: Russian Federation
           United Kingdom

Informal Working Group on Article XXVI of the draft Protocol

Co-ordinator: Mr José Angelo Estrella Faria (Secretary-General of the Conference)

Members: Canada
        China
        France
        Germany
        India
        Luxembourg
        Russian Federation
        Saudi Arabia
        South Africa
        United States of America

Observer: International Telecommunication Union (ITU)

Following its deliberations, the Conference adopted the text of the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets.

The said Protocol has been opened for signature in Berlin this day.

The text of the said Protocol is subject to verification by the Secretariat of the Conference under the authority of the President of the Conference within a period of ninety days from the date hereof as to the linguistic changes required to make the texts in the two languages consistent with one another.
The Conference furthermore adopted by consensus the Resolutions that are set out in annexes to this Final Act.

IN WITNESS WHEREOF the representatives,

GRATEFUL to the Government of the Federal Republic of Germany for having invited the Conference to Germany and for its generous hospitality,

HAVE SIGNED this Final Act.

DONE at Berlin on the ninth day of March of the year two thousand and twelve in a single copy in the English and French languages, each text being equally authentic.

The President

The Secretary-General
RESOLUTION 1

relating to the setting up of the Preparatory Commission for the establishment of the International Registry for space assets

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 (meeting in Berlin from 27 February to 9 March 2012),

HAVING ADOPTED the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets (the Protocol);

HAVING REGARD to Article XXVIII(1) of the Protocol;

BEARING IN MIND the Convention on International Interests in Mobile Equipment (the Convention), opened to signature in Cape Town on 16 November 2001;

CONSCIOUS of the need to undertake preparatory work regarding the establishment of the International Registry for space assets in order to ensure that it be operational by the time when the Protocol enters into force;

CONSIDERING the advantages of formulating the policies and procedures as well as adapting the procedures employed in establishing the International Registry for aircraft objects and the International Registry for railway rolling stock in order to facilitate the expeditious establishment of the International Registry for space assets and contain the costs thereof to the extent possible;

RESOLVES:

TO ESTABLISH, pending the entry into force of the Protocol, a Preparatory Commission to act with full authority as Provisional Supervisory Authority for the establishment of the International Registry for space assets, under the guidance of the General Assembly of UNIDROIT. Such Preparatory Commission shall be composed of persons, having the necessary qualifications and experience, nominated by one-third
APPENDIX IV

of the negotiating States, with the International Telecommunication Union (ITU), the International Civil Aviation Organization (ICAO), the Intergovernmental Organisation for Carriage by Rail (OTIF) and representatives of the commercial space, financial and insurance communities and other interested parties being invited to participate in the work of the Preparatory Commission as observers;

TO INSTRUCT the Preparatory Commission to carry out, under the guidance of the General Assembly of UNIDROIT, the following three specific functions:

(1) to ensure that the international registration system be set up, in accordance with an objective selection process, and that it become ready to be operated, with a target date of three years from the adoption of the Protocol, by the time of the entry into force of the Protocol;

(2) to ensure the necessary liaison and co-ordination with the commercial space, financial and insurance communities which will be users of the International Registry for space assets; and

(3) to work on such other matters relating to the International Registry for space assets as may be required with a view to ensuring the establishment of that International Registry;

TO INVITE the General Assembly of UNIDROIT, in the event of the governing bodies of ITU deciding that the latter should not become the Supervisory Authority of the International Registry for space assets, to appoint another international Organisation or entity as Supervisory Authority of that International Registry upon or after the entry into force of the Protocol;

TO INVITE the Supervisory Authority to establish a Commission of Experts consisting of not more than 20 members from among persons nominated by the Signatory and Contracting States to the Protocol, having the necessary qualifications and experience, with the task of assisting it in the discharge of its functions.
APPENDIX V

RESOLUTION 2
relating to the establishment of the
Supervisory Authority of the International Registry for space assets

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 (meeting in Berlin from 27 February to 9 March 2012),

HAVING ADOPTED the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets (the Protocol);

HAVING REGARD to Article XXVIII(1) of the Protocol;

BEARING IN MIND the Convention on International Interests in Mobile Equipment (the Convention), opened to signature in Cape Town on 16 November 2001;

IN THE LIGHT OF the adoption by the Conference of Resolution 1 relating to the setting up of the Preparatory Commission for the establishment of the International Registry for space assets;

CONSIDERING the interest expressed at the Conference by the observer representing the Secretary-General of the International Telecommunication Union (ITU) for the ITU to consider becoming Supervisory Authority of the International Registry for space assets, subject to consideration of the matter by the governing bodies of the ITU and without prejudice to the decision to be taken by them in this regard, in the light of the outcome of the Conference, taking into account the financial, juridical and technical implications of such a decision;

RESOLVES:

TO INVITE the governing bodies of the ITU:

(1) to consider the matter of the ITU becoming Supervisory Authority upon or after the entry into force of the Protocol and take the necessary action, as appropriate; and

(2) to inform the Secretary-General of UNIDROIT accordingly.
RESOLUTION 3

relating to the regulations of the International Registry for space assets

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 (meeting in Berlin from 27 February to 9 March 2012),

HAVING ADOPTED, in Article XVII(3) of the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets, provisions contemplating the enforcement of an international interest in a space asset that is physically linked with another space asset;

RESOLVES:

TO INVITE the Supervisory Authority of the International Registry for space assets (the International Registry) to ensure that, so far as practicable, any search of the International Registry relating to physically linked assets reveal all international interests registered against such assets, as also any rights assignments, acquisitions by subrogation and rights reassignments recorded as part of the registration of those assets.
RESOLUTION 4
relating to the provision of reasonable discounts on exposure rates to debtors by financing Organisations

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 (meeting in Berlin from 27 February to 9 March 2012),

MINDFUL of the objectives of the Convention on International Interests in Mobile Equipment and the Protocol thereto on Matters specific to Space Assets;

DESIRous to achieve the provision of affordable financing of space assets for developing countries;

RESOLVES:

TO ENCOURAGE all Contracting States, and international, national, as well as private financing institutions, to assist the developing Contracting States by providing them with reasonable discounts or rebates on any exposure rates or similar charges levied by such financing institutions.
APPENDIX VIII

RESOLUTION 5

relating to the Official Commentary on the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets

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 (meeting in Berlin from 27 February to 9 March 2012),

HAVING ADOPTED the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets (the Protocol);

MINDFUL of the existing Official Commentaries to, on the one hand, the Convention on International Interests in Mobile Equipment and the Protocol thereto on Matters specific to Aircraft Equipment and, on the other, the Protocol on Matters specific to Railway Rolling Stock, as well as their importance;

RECOGNISING the increasing use of commentaries of this type in the context of modern, technical commercial law instruments;

CONSCIOUS of the need for an official commentary on the Protocol as an aid for those called upon to work with this instrument; and

MINDFUL that the Explanatory Note on the draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets submitted to the Conference (DCME-SP – Doc. 4) provides a sound starting point for the further development of this official commentary;

RESOLVES:

TO REQUEST that:

(1) the Reporter prepare an official commentary on the Protocol, in close co-operation with the UNIDROIT Secretariat and in co-ordination with the Chairman of the Commission of the Whole, the Chairman of the Final Clauses Committee and the Chairman and members of the Drafting Committee; and
(2) the Official Commentary be circulated for comment in draft form among the States and observers that participated in the Conference prior to its publication being authorised.
APPENDIX IX

CHRONOLOGY

of the development of the Cape Town Convention and Protocols thereto
up to the Berlin diplomatic Conference

(with references to development of the Space Protocol
highlighted in bold type)

1988: Initial decision of the UNIDROIT Governing Council at its 67th session, held in Rome in June, to propose to the UNIDROIT General Assembly the inclusion of the subject on the Institute’s Work Programme in response to a proposal by the Canadian Government.

1989: Submission to the UNIDROIT Governing Council at its 68th session, held in Rome in April, of a study on an International regulation of aspects of security interests in mobile equipment, prepared by Mr Ronald C.C. Cuming, Professor of Law in the University of Saskatchewan.

1990: Questionnaire designed to test the assumptions underpinning Mr Cuming’s conclusions, circulated by the UNIDROIT Secretariat in business and financial circles.

1991: Analysis of the replies to this questionnaire, prepared by the UNIDROIT Secretariat and submitted to the UNIDROIT Governing Council at its 70th session, held in Rome in May.

1992: Restricted Exploratory Working Group, chaired by Sir Roy Goode, Professor of English Law in the University of Oxford, and assisted by representatives of business interests and practising lawyers with special experience of the problems raised by cross-border secured financing, met in Rome in March to ascertain the need for, and feasibility of, uniform rules.

1993: Study Group for the preparation of uniform rules on certain international aspects of security interests in mobile equipment, chaired by Sir Roy Goode, met for the first time in Rome in March and made a preliminary examination of the issues involved in the preparation of uniform rules.
Decision by the UNIDROIT Governing Council at its 72nd session, held in Rome in June, that this work should for the time being be carried forward within a Sub-committee of the Study Group essentially responsible for the preparation of a first draft.

1994:  *Sub-committee for the preparation of a first draft*, chaired by Sir Roy Goode, met for the first time in Rome in February reaching a number of provisional conclusions regarding the sphere of application of the uniform rules, the setting up of an international registry and the conditions that should govern the recognition by the courts of a Contracting State of international interests in mobile equipment created under the uniform rules.

  *Drafting Group of the Sub-committee*, chaired by Sir Roy Goode, met for the first time in Paris in July to draw up proposals for a first set of draft articles of a future UNIDROIT Convention on International Interests in Mobile Equipment, on the basis of the provisional conclusions reached by the Sub-committee at its first session.

  *Sub-committee for the preparation of a first draft* met for a second time in Rome in November/December, considering the proposals for a first draft prepared by the Drafting Group, in particular in the light of the comments submitted thereon by members of the Study Group and the Sub-committee and the international Organisations represented by observers thereon, reaching a number of provisional conclusions regarding priorities and enforcement and inviting the Boeing Company and Airbus Industrie jointly to prepare a memorandum for the consideration of the Sub-committee setting forth a representative aviation industry view on the desired content of the proposed Convention as the same related to aircraft.

1995:  *Memorandum* submitted jointly in May by Airbus Industrie and The Boeing Company on behalf of a working group (the Aviation Working Group).

  Submission of this Memorandum for comment to all members of the Sub-committee as well as the international Organisations represented by observers thereon in May and to all other members of the Study Group and international Organisations represented thereon by observers in July.

  *Drafting Group of the Sub-committee* met for a second time in Oxford in June to draw up revised proposals for a first set of draft articles of the planned UNIDROIT Convention, on the basis of the provisional conclusions reached by the Sub-committee at its second session.
Submission of Drafting Group’s revised proposals for a first set of draft articles submitted for comment to all members of both the Sub-committee and the Study Group as well as the international Organisations represented thereon by observers in July.

Sub-committee for the preparation of a first draft met for a third and final time in Rome in October, considering the revised proposals for a first set of draft articles prepared by the Drafting Group and the Memorandum submitted jointly by Airbus Industrie and The Boeing Company.

Drafting Group of the Sub-committee met for a third time in Oxford in December to establish a first set of draft articles of a future UNIDROIT Convention on International Interests in Mobile Equipment, pursuant to the decisions taken by the Sub-committee at its third session.

1996: Restricted Drafting Group of the Sub-committee, manned by the French member thereof and a representative of the UNIDROIT Secretariat, met in Paris in March to revise the first set of draft articles which the Drafting Group had established in December 1995, in particular with a view to improving the French text and rendering it more consistent with the English text.

Second memorandum, incorporating a draft aviation text, submitted jointly by Airbus Industrie and The Boeing Company on behalf of an Aviation Working Group in March.

Study Group for the preparation of uniform rules on certain international aspects of security interests in mobile equipment met for a second time in Rome in April to consider the first set of draft articles of a future UNIDROIT Convention on International Interests in Mobile Equipment established by the Drafting Group of the Sub-committee in conjunction with the draft aviation text submitted by Airbus Industrie and The Boeing Company.

Registration Working Group of the Study Group, chaired by Mr Ronald C.C. Cuming, met for a first time in Rome in April to consider the legal and technical issues raised by the setting up of the international register posited under the future UNIDROIT Convention.

Drafting Group of the Study Group, chaired by Sir Roy Goode, met for a first time in Rome in April and for a second time in Oxford in October to revise the draft articles in the light of the Study Group’s reading at its second session of the first set of draft articles in conjunction with the draft aviation text.
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1997: Study Group for the preparation of uniform rules on certain international aspects of security interests in mobile equipment met for a third time in Rome in January to consider the revised draft articles established by the Drafting Group as well as a joint proposal of the Aviation Working Group and the International Air Transport Association (IATA).

Drafting Group of the Study Group met for a third time in Rome in January to commence revising the revised draft articles in the light of the Study Group’s deliberations at its third session.

Establishment of a working group, external to UNIDROIT, for the preparation of a preliminary draft Protocol on matters specific to aircraft equipment (the Aircraft Protocol Group), to be organised by Mr Jeffrey Wool, expert consultant to the Study Group on international aviation finance matters, authorised by the President of UNIDROIT, in February.

Preparation by the Chairman of the Study Group in February of a completely revised set of the revised draft articles designed to take account of the work accomplished by the Drafting Group in January and, for those provisions not considered by the Drafting Group on that occasion, of the deliberations of the Study Group at its third session.

Registration Working Group of the Study Group met for a second time in Geneva in May to consider the provisions relating to registration of the Chairman’s February redraft.

Drafting Group of the Study Group met for a fourth time in Würzburg in July to agree on the text of the revised draft articles, amended to take account inter alia of the proposals relating to the registration provisions made at the second meeting of the Registration Working Group, to go before the Study Group at its fourth session.

Circulation of the revised draft articles proposed by the Drafting Group circulated for comment in August among those invited to participate in the fourth session of the Study Group and those having responded to the Secretariat’s initial questionnaire.

Establishment of a working group, external to UNIDROIT, for the preparation of a preliminary draft Protocol on matters specific to space property (the Space Working Group), to be organised by Mr Peter Nesgos, expert consultant to the Study Group on international space finance matters, Mr Scott Siegel and Mr Dan Schechter, authorised by the President of UNIDROIT, in August.
**Chronology**

*Space Working Group* held its first meeting in Los Angeles in July.

*Study Group for the preparation of uniform rules on certain international aspects of security interests in mobile equipment* met for a fourth and final time in Rome in November to consider the revised draft articles proposed by the Drafting Group, in particular in the light of the comments received thereto.

*Drafting Group of the Study Group* met for a fifth and final time in Rome in November to amend the revised draft articles as agreed by the Study Group at its fourth session.

Decision by the ICAO Council at the Tenth Meeting of its 152nd Session in December to include in the General Work Programme of the Legal Committee of ICAO the item “International Interests in Mobile Equipment (Aircraft Equipment)”.

Finalisation of the text of the preliminary draft UNIDROIT Convention on International Interests in Mobile Equipment established by the Study Group in December.

Establishment of a working group, external to UNIDROIT, for the preparation of a preliminary draft Protocol on matters specific to railway rolling stock (the Rail Working Group), to be organised by Mr Howard Rosen, expert consultant to the Study Group on international rail finance matters, authorised by the President of UNIDROIT, in December.

1998: Submission to the President of UNIDROIT of the preliminary draft Protocol on Matters specific to Aircraft Equipment, established by the Aircraft Protocol Group (the core members of which were the International Civil Aviation Organization (ICAO), IATA and the Aviation Working Group) in January.

Decision by the UNIDROIT Governing Council at its 77th session, held in Rome in February, that the preliminary draft UNIDROIT Convention on International Interests in Mobile Equipment and the preliminary draft Protocol thereto on Matters specific to Aircraft Equipment should be further refined by a Steering and Revisions Committee before and with a view to their submission to governmental experts.

*Steering and Revisions Committee*, chaired by Sir Roy Goode, as member of the UNIDROIT Governing Council, met in Rome in June to finalise the texts of the preliminary draft UNIDROIT Convention on International Interests in Mobile Equipment and the preliminary draft Protocol on Matters specific to Aircraft Equipment, in the light of the comments formulated by members of the Governing
APPENDIX IX

Council at its 77th session and on the basis of revised texts prepared by the Chairman of the Study Group.

Decision by the ICAO Assembly at its 32nd Session in Montreal in September/October to upgrade the priority of the item “International Interests in Mobile Equipment (Aircraft Equipment)” within the General Work Programme of the ICAO Legal Committee and to urge the Legal Committee to pursue this matter with a view to convening a diplomatic Conference at the earliest possible date.

Decision by the Chairman of the ICAO Legal Committee in October to establish a Sub-Committee of the Legal Committee “to study the subject of a draft instrument or draft instruments relating to international interests in mobile equipment, with particular reference to aircraft equipment”.

1999: First Joint Session of the UNIDROIT Committee of Governmental Experts for the preparation of a draft Convention on International Interests in Mobile Equipment and a draft Protocol thereto on Matters specific to Aircraft Equipment and the Sub-Committee of the ICAO Legal Committee on the study of international interests in mobile equipment (aircraft equipment), chaired by Ms Emilia Chiavarelli (Italy), held in Rome in February to consider the preliminary draft UNIDROIT Convention on International Interests in Mobile Equipment and the preliminary draft Protocol on Matters specific to Aircraft Equipment.

Registration Working Group of the Joint Session, chaired by Mr Ronald C.C. Cuming (Canada), met in Rome for the first time in February to consider the provisions of the preliminary draft Convention concerned with the international registration system, the modalities of registration and the liabilities and immunities of the International Registry and the provisions of the preliminary draft Aircraft Protocol concerned with registration of international interests in aircraft objects.

Decision by the UNIDROIT Governing Council at its 78th session, held in Rome in April, that, should the preliminary draft Protocol on matters specific to railway rolling stock be submitted by the Rail Working Group before its 79th session, the UNIDROIT Secretariat should have the authority to convene a Steering and Revisions Committee before its submission to the Governing Council.

Consideration of the UNIDROIT project for the creation of a new legal regimen governing the taking of security in high-value mobile assets: “a window of opportunity for the commercialisation of space” at the Third Colloquium of the European Centre for Space Law on International Organisations and Space Law: their Role and Contributions, held in Perugia in May.
Registration Working Group met informally in New York in June in order to
discuss the features of an electronic International Registry for international interests in
aircraft objects.

Informal Insolvency Working Group of the Joint Session, chaired by Miss Catherine R.
Allen (United Kingdom), met in Rome in July to consider the insolvency-related
provisions of the preliminary draft Convention and the preliminary draft Aircraft
Protocol.

Consideration of the UNIDROIT project for the creation of a new regimen
governing the taking of security in high-value mobile assets: “a window of
opportunity in the context of the privatisation and commercialisation of space”
at the Workshop on Space Law in the Twenty-first Century, organised by the
International Institute of Space Law with the United Nations Office for Outer
Space Affairs, as part of the Technical Forum on Space Law of the Third United
Nations Conference on the Exploration and Peaceful Uses of Outer Space, held
in Vienna in July.

Second Joint Session of the UNIDROIT Committee of Governmental Experts and the Sub-
Committee of the ICAO Legal Committee held in Montreal in August/September to
continue consideration of the preliminary draft UNIDROIT Convention and the
preliminary draft Aircraft Protocol, as revised at the First Joint Session.

Registration Working Group met in Montreal in August/September to complete
its consideration of the registration provisions of the preliminary draft Convention
and the preliminary draft Aircraft Protocol.

Insolvency Working Group of the Joint Session, chaired by Mr Bryan Welch (United
Kingdom), met in Montreal in August/September.

Public International Law Working Group of the Joint Session, chaired by Ms Gloria T.
Serobe (South Africa), met informally in Montreal in August/September to organise the
task of considering a number of problem areas of a public international law nature
identified during the Joint Session’s second reading of the preliminary draft Convention
and preliminary draft Aircraft Protocol referred to it by the Second Joint Session.

Ad hoc Drafting Group of the Second Joint Session, chaired by Mr Karl F. Kreuzer
(Germany), met in Rome in November to complete the drafting work left
uncompleted by the Second Joint Session and to prepare revised texts of the
preliminary draft Convention and the preliminary draft Aircraft Protocol for the third
Joint Session.
Public International Law Working Group met for a first time in Cape Town and on the Blue Train en route to Pretoria in December.

2000: Submission to the President of UNIDROIT of the preliminary draft Protocol on Matters specific to railway rolling stock, established by the Rail Working Group, constituted under the authority of the President of UNIDROIT, in February.

Decision by the Chairman of the ICAO Legal Committee in March to appoint a Rapporteur (Mr Gilles Lauzon (Canada)) on the subject “International Interests in Mobile Equipment (Aircraft Equipment)”.

Third Joint Session of the UNIDROIT Committee of Governmental Experts and the Subcommittee of the ICAO Legal Committee held in Rome in March to finalise a draft [UNIDROIT] Convention on International Interests in Mobile Equipment and a draft Protocol thereto on Matters specific to Aircraft Equipment, on the basis of the texts of the preliminary draft Convention and the preliminary draft Aircraft Protocol revised by the ad hoc Drafting Group.

Public International Law Working Group met for a second and final time in Rome in March.

Ad hoc International Registry Task Force of the Joint Session, co-chaired by Mr Georges Grall (France) and Mr Joseph R. Standell (United States of America), met informally in Rome in March to organise the task of preparing for the establishment of the International Registry for aircraft objects referred to it by the Third Joint Session.

Steering and Revisions Committee, chaired by Mr Roland Loewe, as member of the UNIDROIT Governing Council, met in Rome in March to finalise the text of the preliminary draft Protocol on Matters specific to Railway Rolling Stock prepared by the Rail Working Group, with a view to its submission to the UNIDROIT Governing Council at its 79th session.

Decision by the UNIDROIT Governing Council at its 79th session, held in Lisbon in April, that the texts of the draft [UNIDROIT] Convention and the draft Aircraft Protocol were ready for submission to a diplomatic Conference, authorising the UNIDROIT Secretariat to make arrangements for the holding of such a Conference as early as practicable in 2001 and to proceed on the basis of the texts annexed to the Report of the Drafting Committee of the Third Joint Session in concluding arrangements with the Government of South Africa or, failing this, the Government of Ireland or another interested Government to host the diplomatic Conference.
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Decision by the UNIDROIT Governing Council at its 79th session, held in Lisbon in April, to authorise the UNIDROIT Secretariat to convene, as early as practicable, a Committee of governmental experts to consider the preliminary draft Protocol on Matters specific to Railway Rolling Stock finalised by the Steering and Revisions Committee, in collaboration with the Intergovernmental Organisation for International Carriage by Rail (OTIF).

Decision by the ICAO Council at the Fifth Meeting of its 160th Session, held in Montreal in May, to refer the draft [UNIDROIT] Convention and the draft Aircraft Protocol for consideration to the 31st Session of the ICAO Legal Committee.

United Nations Committee on the Peaceful Uses of Outer Space (UN/COPUOS), at its 43rd session, held in Vienna in June, decided, first, to include consideration of the draft [UNIDROIT] Convention and the preliminary draft Protocol on Matters specific to Space Property on the agenda of the Legal Subcommittee of UN/COPUOS at its 40th session, to be held in Vienna in April 2001, as a single issue discussion item and, secondly, to invite the Secretariats of the United Nations Office for Outer Space Affairs (UN/OOSA) and UNIDROIT to prepare a joint background paper for that session.

International Registry Task Force met for the first time in Paris in June to consider a draft request for proposals, a draft requirements document and a draft regarding the process for the soliciting and evaluation of proposals.

Submission of the First Report of the International Registry Task Force to the UNIDROIT and ICAO Secretariats, with enclosures, in July.

ICAO Legal Committee at its 31st Session, held in Montreal in August/September and chaired by Mr Gilles Lauzon (Canada), further considered the draft [UNIDROIT] Convention and the draft Aircraft Protocol.

International Registry Task Force met in Montreal in August/September for the assignment of preliminary papers in respect of certain special subjects.

Restricted informal group of experts met in Rome in October, under the chairmanship of Mr Olivier Tell (France), to identify, and engage in a preliminary discussion of the issues meriting consideration in the context of the relationship between the draft [UNIDROIT] Convention and the preliminary draft Protocol on Matters specific to Space Property and the existing body of international space law.
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Space Working Group held its second meeting in Rome in October.

Decision by the ICAO Council at the Ninth Meeting of its 161st Session, held in Montreal in November, to authorise the circulation of the draft Convention and the draft Aircraft Protocol as they had emerged from the 31st Session of the ICAO Legal Committee to Contracting States and International Organisations and the convening of a diplomatic Conference, in principle in South Africa starting in May 2001.

2001: International Registry Task Force met for a second time in Dublin in January to approve papers relating to the acquisition process for the International Registry.

Joint mission of administrative officers from UNIDROIT and ICAO was carried out to South Africa in January, pursuant to the decision taken by the ICAO Council at the Ninth Meeting of its 161st Session, held in Montreal in November 2000, to discuss the financial implications of, and administrative arrangements for a diplomatic Conference in South Africa with a view to the taking by the ICAO Council of a final decision regarding the venue and date of such a Conference.

Finalisation in January of the report by the UNIDROIT and UN/OOSA Secretariats on the draft [UNIDROIT] Convention and the preliminary draft Protocol on Matters specific to Space Property for consideration by the Legal Subcommittee of UN/COPUOS at its 40th session.

International Registry Task Force met for a third time in Washington, D.C. in February to finalise discussion of a paper on the basic features of the International Registry, to be enclosed with the Request for Proposals.

Submission of the Second Report of the International Registry Task Force to the UNIDROIT and ICAO Secretariats, enclosing final acquisition papers and recommendations as to their issuance, in February.

First Joint Session of the UNIDROIT/OTIF Committee of governmental experts for the preparation of a draft Protocol on Matters specific to Railway Rolling Stock held, under the chairmanship of Mr Karl F. Kreuzer (Germany), in Berne in March, proceeding to a first reading of the preliminary draft Protocol finalised by the Steering and Revisions Committee.

Decision by the ICAO Council, at the Eleventh Meeting of its 162nd Session, held in Montreal in March, that the diplomatic Conference should be held in Cape Town from 29 October to 16 November 2001.
CHRONOLOGY

Consideration of the draft [UNIDROIT] Convention and the then working draft of a preliminary draft Protocol on Matters specific to Space Property under consideration by the Space Working Group by the Legal Subcommittee of UN/COPUOS, as a single issue discussion item, at its 40th session, held in Vienna in April.

Space Working Group held its third meeting in Seal Beach, California in April.

Decision by UN/COPUOS at its 44th session, held in Vienna in June to endorse the agreement reached by the Legal Subcommittee at its 40th session, first, that consideration of the draft [UNIDROIT] Convention and the working draft of a preliminary draft Protocol on Matters specific to Space Property should be retained, as a single issue item, on the agenda of the Legal Subcommittee for its 41st session, to be held in Vienna in April 2002, and, secondly, that an ad hoc consultative mechanism should be set up to review the draft [UNIDROIT] Convention and the working draft of the preliminary draft Protocol on Matters specific to Space Property and to report back to the Legal Subcommittee at its 41st session.

Submission to the President of UNIDROIT of the preliminary draft Protocol on Matters specific to Space Property established by the Space Working Group in June.

UN/COPUOS ad hoc consultative mechanism held its first working meeting, hosted by the Government of France, in Paris in September.

Space Working Group held its fourth meeting in Evry Courcouronnes in September.

International Registry Task Force met for a fourth time in Geneva in September in order to finalise expert papers and consider the cost and timing of the setting up of the International Registry.

Decision by the UNIDROIT Governing Council at its 80th session, held in Rome in September, to authorise the Secretariat to transmit the preliminary draft Protocol on Matters specific to Space Property prepared by the Space Working Group to Governments and to convene a first session of a UNIDROIT Committee of governmental experts (open also to all members of UN/COPUOS) to prepare a draft Protocol on the basis thereof at such time as a Steering and Revisions Committee had had the opportunity to review it in the
light of both the texts of the draft Convention and the draft Aircraft Protocol to be adopted by the diplomatic Conference and the preliminary results of the UN/COPUOS ad hoc consultative mechanism.

Submission of the Third Report of the International Registry Task Force to the UNIDROIT and ICAO Secretariats, enclosing draft Regulations for the International Registry, a draft outline on private law aspects of the relationship between the Supervisory Authority and the International Registry, a paper on the liability of the International Registry and another on funding/cost recovery methods for the International Registry, in October.

**Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol**, convened under the joint auspices of UNIDROIT and ICAO, held in Cape Town from 29 October to 16 November, adopting and opening to signature the Convention on International Interests in Mobile Equipment (the Convention) and the Protocol on Matters specific to Aircraft Equipment.

**2002**: **UN/COPUOS ad hoc consultative mechanism** held its second working meeting, hosted by the Government of Italy, in Rome in January.

**Space Working Group** held its fifth meeting in Rome in January.

**Steering and Revisions Committee** for consideration of the preliminary draft Protocol on Matters specific to Space Assets prepared by the Space Working Group met in Rome in February, under the chairmanship of Mr Jorge Sánchez Cordero Dávila (Mexico).

**Drafting Group of the Drafting Committee of the UNIDROIT/OTIF Committee of governmental experts for the preparation of a draft Protocol on Matters specific to Railway Rolling Stock**, chaired by Mr Karl F. Kreuzer (Germany), held its first session in Rome in February to draft the changes agreed at the first session of the UNIDROIT/OTIF Committee of governmental experts.

**Registry Task Force (Rail)** established by the UNIDROIT/OTIF Committee of governmental experts at its first joint session held its first session in Rome in March, under the co-chairmanship of Mr Fabio Croccolo (Italy) and Mr Peter Bloch (United States of America).
Consideration of the Convention and the preliminary draft Protocol on Matters specific to Space Assets by the Legal Subcommittee of UN/COPUOS, as a single issue discussion item, at its 41st session, held in Vienna in April.

Second Joint Session of the UNIDROIT/OTIF Committee of governmental experts for the preparation of a draft Protocol on Matters specific to Railway Rolling Stock held, under the chairmanship of Ms I. Weinberg de Roca (Argentina), in Rome in June, considering the amended text of the preliminary draft Rail Protocol and undertaking a second reading of Articles I to XV and a first reading of the remaining Articles of that text.

Decision by UN/COPUOS at its 45th session, held in Vienna in June, to endorse the agreement reached by the Legal Subcommittee at its 41st session that consideration of the preliminary draft Protocol on Matters specific to Space Assets should be retained, as a single issue item, on the agenda of the Legal Subcommittee for its 42nd session, to be held in Vienna in March/April 2003, to consider in particular, first, the possibility of the United Nations serving as Supervisory Authority under the future Space Protocol and, secondly, the relationship between the terms of the preliminary draft Protocol and the rights and obligations of States under the legal regimen applicable to outer space.

Drafting Group of the Drafting Committee of the UNIDROIT/OTIF Committee of governmental experts for the preparation of a draft Protocol on Matters specific to Railway Rolling Stock held its second session in Rome in October to draft the changes agreed at the second session of the UNIDROIT/OTIF Committee of governmental experts.

2003: Registry Task Force (Rail) held its second session, chaired by Mr Peter Bloch (United States of America), in Washington D.C. in March.

Consideration of the preliminary draft Protocol on Matters specific to Space Assets by the Legal Subcommittee of UN/COPUOS, as a single issue discussion item, at its 42nd session, held in Vienna in March/April.

Third Joint Session of the UNIDROIT/OTIF Committee of governmental experts for the preparation of a draft Protocol on Matters specific to Railway Rolling Stock held, under the co-chairmanship of Ms I. Weinberg de Roca (Argentina) and Mr A. Leinonen (Finland), in Berne in May, proceeding to a reading of the entirety of the preliminary draft Rail Protocol and the finalisation by the Drafting Committee of the text adopted.

Decision by UN/COPUOS at its 46th session, held in Vienna in June, to endorse the agreement reached by the Legal Subcommittee at its 42nd session
that consideration of the preliminary draft Protocol on Matters specific to Space Assets should be retained, as a single issue item, on the agenda of the Legal Subcommittee for its 43rd session, to be held in Vienna in March/April 2004, to consider in particular, first, the possibility of the United Nations serving as Supervisory Authority under the future Space Protocol and, secondly, the relationship between the terms of the preliminary draft Protocol and the rights and obligations of States under the legal regimen applicable to outer space.

An opportunity for Government and industry to compare notes in the run-up to the intergovernmental consultation process: a colloquium on the preliminary draft Protocol on Matters specific to Space Assets organised by UNIDROIT, in co-operation with the European Centre for Space Law, in Paris in September.

Advisory Committee of the International Mobile Satellite Organization (IMSO), at its eighth session, held in London in November, considered the possibility of I.M.S.O. serving as Supervisory Authority under the future Space Protocol and decided to authorise the IMSO Secretariat to follow the work of the Committee of governmental experts with a view to reporting to the Assembly of Parties of that Organisation, at its following meeting, to be held in October 2004.

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 held its first session in Rome in December, under the chairmanship of Mr Sergio Marchisio (Italy).

2004: Consideration of the preliminary draft Protocol on Matters specific to Space Assets by the Legal Subcommittee of UN/COPUOS, as a single issue discussion item, at its 43rd session, held in Vienna in March/April.

Regional seminar to promote awareness of the future Rail Protocol in, and its potential benefits for the countries of Central and Eastern Europe, organised by UNIDROIT, OTIF and the Rail Working Group, in co-operation with the Government of Poland, in Warsaw in April.

An opportunity for Government and industry to compare notes in the run-up to the intergovernmental consultation process: a colloquium on the preliminary draft Protocol on Matters specific to Space Assets organised by
UNIDROIT, in co-operation with the Malaysian National Space Agency and the Space Working Group, in Kuala Lumpur in April.

Decision by UN/COPUOS at its 47th session, held in Vienna in June, to endorse the agreement reached by the Legal Subcommittee at its 43rd session that consideration of the preliminary draft Protocol on Matters specific to Space Assets should be retained, as a single issue item, on the agenda of the Legal Subcommittee for its 44th session, to be held in Vienna in April 2005, to consider in particular, first, the possibility of the United Nations serving as Supervisory Authority under the future Space Protocol and, secondly, the relationship between the terms of the preliminary draft Protocol and the rights and obligations of States under the legal regimen applicable to outer space.

Registry Task Force (Rail) held its third session, chaired by Mr Peter Bloch (United States of America) and Mr Henrik Kjellin (Sweden), in Brussels in September.

Regional seminar to promote awareness of the future Rail Protocol in, and its potential benefits for the countries of the Americas, organised by UNIDROIT and OTIF, in co-operation with the Government of Mexico and the Mexican Center of Uniform Law, in Mexico City in October.

IMSO Assembly of Parties, at its Session held in October, requested the Director of IMSO to continue to monitor developments regarding the preliminary draft Protocol on Matters specific to Space Assets and to report to the following Session of the Assembly and to the Advisory Committee on all implications, including costs.

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 held its second session in Rome in October, deciding on the carrying out of intersessional work on certain aspects of the preliminary draft Protocol.

2005: Registry Task Force (Rail) held its fourth session, chaired by Mr Peter Bloch (United States of America) and Mr Henrik Kjellin (Sweden), in Rome in February.

Consideration of the preliminary draft Protocol on Matters specific to Space Assets by the Legal Subcommittee of UN/COPUOS, as a single issue discussion item, at its 44th session, held in Vienna in April.
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Decision by the UNIDROIT Governing Council at its 84th session, held in Rome in April, to authorise the UNIDROIT Secretariat’s transmission of the draft Rail Protocol to a diplomatic Conference, for adoption.

Decision by UN/COPUOS at its 48th session, held in Vienna in June, to endorse the agreement reached by the Legal Subcommittee at its 44th session that examination and review of the developments concerning the preliminary draft Protocol on Matters specific to Space Assets should be included, as a single issue item, on the agenda of the Legal Subcommittee for its 45th session, to be held in Vienna in April 2006.

Decision by the General Assembly of OTIF in October that OTIF should assume the role of Secretariat of the Supervisory Authority under the draft Rail Protocol, subject to agreement between the Administrative Committee of OTIF and the Supervisory Authority of the Rail Registry.


2006: Decision by the Government of the Grand Duchy of Luxembourg to invite the Governments of all UN member States to attend the diplomatic Conference for the adoption of the draft Rail Protocol in February 2007.

Consideration of the preliminary draft Protocol on Matters specific to Space Assets by the Legal Subcommittee of UN/COPUOS, as a single issue discussion item, at its 45th session, held in Vienna in April.

The crucial role of industry in finalising an expansion of the Cape Town Convention to cover space assets: a Government-industry forum on the preliminary draft Protocol on Matters specific to Space Assets, hosted by the Royal Bank of Scotland, in collaboration with UNIDROIT and the Space Working Group, in London in April.

Decision by UN/COPUOS at its 49th session, held in Vienna in June, to endorse the agreement reached by the Legal Subcommittee at its 45th session that examination and review of the developments concerning the preliminary draft Protocol on Matters specific to Space Assets should be retained, as a single issue item, on the agenda of the Legal Subcommittee for its 46th session, to be held in Vienna in March/April 2007.
Chronology

Regional seminar to promote awareness of the future Rail Protocol amongst, and its potential benefits for African Governments, development banks and rail operators organised under the joint auspices of the Government of the Republic of Togo, UNIDROIT and AFRICARAIL and funded by the Government of the Grand Duchy of Luxembourg, held in Lomé in November.

2007: Diplomatic Conference to Adopt a Rail Protocol to the Convention on International Interests in Mobile Equipment, convened under the joint auspices of UNIDROIT and OTIF, held in Luxembourg from 12 to 23 February, adopting and opening to signature the Protocol to the Convention on Matters specific to Railway Rolling Stock.

Consideration of the preliminary draft Protocol on Matters specific to Space Assets by the Legal Subcommittee of UN/COPUOS, as a single issue discussion item, at its 46th session, held in Vienna in March/April.

Decision by UN/COPUOS at its 50th session, held in Vienna in June, to endorse the agreement reached by the Legal Subcommittee at its 46th session that examination and review of the developments concerning the preliminary draft Protocol on Matters specific to Space Assets should be included, as a single issue item, on the agenda of the Legal Subcommittee for its 47th session, to be held in Vienna in March/April 2008.


Establishment by the UNIDROIT General Assembly, at its 61st session, held in Rome in November, of a Steering Committee, open to all having participated in the intersessional Government-industry meetings, with a view to finding the most appropriate means of building consensus around the provisional conclusions reached by the New York forum.

2008: Consideration of the preliminary draft Protocol on Matters specific to Space Assets by the Legal Subcommittee of UN/COPUOS, as a single issue discussion item, at its 47th session, held in Vienna in March/April.
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*Steering Committee* to build consensus around the provisional conclusions reached by the New York Government/industry meeting regarding the preliminary draft Protocol on Matters specific to Space Assets (the Steering Committee) held its first meeting in Berlin in May, under the chairmanship of Mr Sergio Marchisio (Italy).

Decision by UN/COPUOS at its 51st session, held in Vienna in June, to endorse the agreement reached by the Legal Subcommittee at its 47th session that examination and review of the developments concerning the preliminary draft Protocol on Matters specific to Space Assets should be included, as a single issue item, on the agenda of the Legal Subcommittee for its 48th session, to be held in Vienna in March/April 2009.

*Sub-committee of the Steering Committee on default remedies in relation to components* met in Berlin in October/November, under the chairmanship of Mr Sergio Marchisio (Italy).

2009: Consideration of the preliminary draft Protocol on Matters specific to Space Assets by the Legal Subcommittee of UN/COPUOS, as a single issue discussion item, at its 48th session, held in Vienna in March/April.

Authorisation by the UNIDROIT Governing Council, at its 88th session, held in Rome in April, of the UNIDROIT Secretariat, subject to the success of the meetings of the Steering Committee and its Sub-committee on public service in May 2009 and in consultation with the Chairman of the Committee of governmental experts and the Steering Committee, reconvening the 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 in late 2009.

*Sub-committee of the Steering Committee on public service* met in Paris in May, under the chairmanship of Mr Sergio Marchisio (Italy).

*Steering Committee* held its second meeting in Paris in May, concluding that the time was ripe for resumption of the intergovernmental consultation process.

Decision by UN/COPUOS at its 52nd session, held in Vienna in June, to endorse the agreement reached by the Legal Subcommittee at its 48th session that examination and review of the developments concerning the preliminary draft Protocol on Matters specific to Space Assets should be
included, as a single issue item, on the agenda of the Legal Subcommittee for its 49th session, to be held in Vienna in March/April 2010.

Consideration of the preliminary draft Protocol on Matters specific to Space Assets at a session of the Annual Conference of the International Bar Association (IBA) held in Madrid in October on the “commercialisation of space: the future of economy in space on the eve of completion of the Space Protocol to the Cape Town Convention”, organised by the IBA Space Law Committee in liaison with UNIDROIT.

Sub-Committee of the 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 to examine certain aspects of the future international registration system for space assets met in Rome in October, under the chairmanship of Mr Bernhard Schmidt-Tedd (Germany).

Consideration of the preliminary draft Protocol on Matters specific to Space Assets as a unique opportunity to expand the benefits of space-based services and to broaden the market for commercial space activities in general at the United Nations/Islamic Republic of Iran Workshop on Space Law “Role of International Space Law in the Development and Strengthening of International and Regional Cooperation of States in the Peaceful Exploration and Uses of Outer Space”, jointly organised in Tehran in November with, and hosted by the Iranian Space Agency and supported by the Asia-Pacific Space Cooperation Organization.

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 held its third session in Rome in December, under the chairmanship of Mr Sergio Marchisio (Italy).

2010: IMSO Advisory Committee decided at its 26th session, held in London in March, that I.M.S.O. could not assume the functions of Supervisory Authority as envisaged by the draft Protocol on Matters specific to Space Assets under preparation.

Consideration of the preliminary draft Protocol on Matters specific to Space Assets by the Legal Subcommittee of UN/COPUOS, as a single issue discussion item, at its 49th session, held in Vienna in March/April.
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 held its fourth session in Rome in May.

Decision by UN/COPUOS at its 53rd session, held in Vienna in June, to endorse the agreement reached by the Legal Subcommittee at its 49th session that examination and review of the developments concerning the preliminary draft Protocol on Matters specific to Space Assets should be included, as a single issue item, on the agenda of the Legal Subcommittee for its 50th session, to be held in Vienna in March/April 2011.

Consideration of the preliminary draft Protocol on Matters specific to Space Assets at a session of the Annual Conference of the IBA held in Vancouver in October on “air and space financing on the basis of the UNIDROIT Protocols to the 2001 Cape Town Convention”, organised jointly by the IBA Space Law and World Organisations Committees.

Intersessional consultations with representatives of the international commercial space and financial communities convened, in accordance with the decision taken by the 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 at its fourth session, in Rome in October, with Ms Anna Veneziano (Italy) and Mr Marc Borello (Thales Alenia Space) as moderators.

Intersessional meeting of the Informal Working Group of the 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 on default remedies in relation to components convened, in accordance with the decision taken by that Committee at its fourth session, in Rome in October, with Mr José Angelo Estrella Faria (Secretary-General of UNIDROIT) as moderator.

Intersessional meeting of the Informal Working Group of the 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 on limitations on remedies convened, in accordance with the decision taken by that Committee at its fourth session, in Rome in October, with Mr José Angelo Estrella Faria (Secretary-General of UNIDROIT) as moderator.

2011: *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* held its fifth session in Rome in February, with Mr Sergio Marchisio (Italy) at the conclusion of the session, as Chairman, recommending, on behalf of the Committee, to the UNIDROIT Governing Council that it authorise the transmission of the revised preliminary draft Protocol to a diplomatic Conference, for adoption.

Consideration of the preliminary draft Protocol on Matters specific to Space Assets by the Legal Subcommittee of UN/COPUOS, as a single issue discussion item, at its 50th session, held in Vienna in March/April.

Authorisation by the UNIDROIT Governing Council, at its 90th session, held in Rome in May, of the UNIDROIT Secretariat transmitting the draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets to a diplomatic Conference, for adoption.

Decision by UN/COPUOS at its 54th session, held in Vienna in June, to endorse the agreement reached by the Legal Subcommittee at its 50th session that examination and review of the developments concerning the draft Protocol on Matters specific to Space Assets should be included, as a single issue item, on the agenda of the Legal Subcommittee for its 51st session, to be held in Vienna in March 2012.

Decision by the Government of the Federal Republic of Germany in June to host the diplomatic Conference to adopt the draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets.

Consideration by the Council of the International Telecommunication Union (ITU) in Geneva in October of the implications of that Organisation
acting as Supervisory Authority of the international registration system to be established under the future Space Protocol.

Authorisation by the ITU Council in Geneva in October of its Secretary-General continuing to express interest in the ITU becoming Supervisory Authority of the international registration system to be established under the future Space Protocol, but without the matter of whether or not that Organisation would become Supervisory Authority being prejudged.

2012: Diplomatic Conference to adopt the draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets, convened under the auspices of UNIDROIT in Berlin from 27 February to 9 March, adopting and opening to signature the Protocol to the Convention on Matters specific to Space Assets.
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LIST OF KEY DOCUMENTS

published by UNIDROIT and ICAO
in connection with the development of the
Cape Town Convention and the Aircraft Protocol

1. PRELIMINARY DOCUMENTS ISSUED BY UNIDROIT

Study LXXII – Doc. 1 – Study on the international regulation of aspects of security interests in mobile equipment (prepared by Mr Ronald C.C. Cuming).

Study LXXII – Doc. 2 – Questionnaire relating to the international regulation of aspects of security interests in mobile equipment.

Study LXXII – Doc. 3 – Analysis of the replies to the questionnaire on an international regulation of aspects of security interests in mobile equipment.

Study LXXII – Doc. 4 – Basic issues identified in responses to the questionnaire on an international regulation of aspects of security interests in mobile equipment, prepared by Mr Ronald Cuming of the University of Saskatchewan.

Study LXXII – Doc. 5 – Report on the restricted exploratory working group to examine the feasibility of drawing up uniform rules on certain international aspects of security interests in mobile equipment, held in Rome from 9 to 11 March 1992.

2. DOCUMENTS CONCERNING THE WORK OF THE UNIDROIT STUDY GROUP FOR THE PREPARATION OF UNIFORM RULES ON CERTAIN INTERNATIONAL ASPECTS OF SECURITY INTERESTS IN MOBILE EQUIPMENT ISSUED BY UNIDROIT – PART I

Study LXXII – Doc. 7 – Summary report on the first session of the Study Group for the preparation of uniform rules on certain international aspects of security interests in mobile equipment (prepared by the UNIDROIT Secretariat).

Study LXXII – Doc. 8 – Memorandum on a proposed UNIDROIT Convention on Security Interests in Mobile Equipment, prepared by Mr Ronald C.C. Cuming, University of Saskatchewan.

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3. DOCUMENTS CONCERNING THE WORK OF THE SUB-COMMITTEE OF THE UNIDROIT STUDY GROUP FOR THE PREPARATION OF UNIFORM RULES ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT: A FIRST DRAFT ISSUED BY UNIDROIT


Study LXXII – Doc. 13 – Proposals for a first set of draft articles of a future UNIDROIT Convention on International Interests in Mobile Equipment (drawn up by the Chairman and a member of the Sub-committee on the basis of the provisional conclusions reached by the latter at its first session).


Study LXXII – Doc. 16 – Sub-committee for the preparation of a first draft: Memorandum (prepared jointly by Airbus Industrie and The Boeing Company on behalf of an aviation working group).

Study LXXII – Doc. 18 – Sub-committee for the preparation of a first draft – Revised proposals for a first set of draft articles of a future UNIDROIT Convention on international interests in mobile equipment (drawn up by the Drafting Group on the basis of the provisional conclusions reached by the Sub-committee at its second session).


Study LXXII – Doc. 22 – First set of draft articles of a future UNIDROIT Convention on international interests in mobile equipment (established by the Drafting Group of the Sub-committee on 19 December 1995 pursuant to the decisions taken by the Sub-committee of the Study Group at its third session).

Study LXXII – Doc. 23 – Second Memorandum prepared jointly by Airbus Industrie and The Boeing Company on behalf of an aviation working group.

Study LXXII – Doc. 24 – First set of draft articles of a future UNIDROIT Convention on international interests in mobile equipment (established by the Drafting
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Group of the Sub-committee on 19 December 1995 as revised by the same on 4 March 1996).

4. DOCUMENTS CONCERNING THE WORK OF THE UNIDROIT STUDY GROUP FOR THE PREPARATION OF UNIFORM RULES ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ISSUED BY UNIDROIT – PART II

Study LXXII – Doc. 27 – Study Group for the preparation of uniform rules on international interests in mobile equipment (second session: Rome, 12 – 16 April 1996): report (prepared by the UNIDROIT Secretariat).

Study LXXII – Doc. 30 – Revised draft articles of a future UNIDROIT Convention on international interests in mobile equipment (proposed by the Drafting Group in the light of the Study Group’s reading at its second session of the first set of draft articles established by the Sub-committee in conjunction with the recommendations of the Aviation Working Group) with introductory remarks (prepared by the UNIDROIT Secretariat).

Study LXXII – Doc. 35 – Revised draft articles of a future UNIDROIT Convention on international interests in mobile equipment (as proposed by the Drafting Group at its fourth session, held in Würzburg from 24 to 26 July 1997) with introductory remarks (by the UNIDROIT Secretariat).

Study LXXII – Doc. 36 – Comments (by members of the Study Group, advisers thereto and the international Organisations, professional associations and other bodies represented thereon by observers as also those persons and bodies having participated from outside the Study Group in the development of the project).

Study LXXII – Doc. 36 Add. 1 – Comments (by the Federal German Association of Banks).

Study LXXII – Doc. 36 Add. 2 – Comments (by the Intergovernmental Organisation for International Carriage by Rail, the European Company for the Financing of Railroad Rolling Stock, the Danish Shipowners’ Association and the Elf Aquitaine Group).

Study LXXII – Doc. 36 Add. 3 – Comments (by the Aircraft Protocol Group).

Study LXXII – Doc. 36 Add. 4 – Comments (by Professor B. Foëx).

Study LXXII – Doc. 36 Add. 5 – Comments (by Mr H.W. Fleisig, Director of the Center for the Economic Analysis of Law (C.E.A.L.) and expert consultant on
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international economic matters to the Study Group, and Professor L.G. Girton, consultant to C.E.A.L.).

Study LXXII – Doc. 37 – Study Group for the preparation of uniform rules on international interests in mobile equipment: preliminary draft UNIDROIT Convention on International Interests in Mobile Equipment (as established by the Study Group at the conclusion of its fourth session, held in Rome from 3 to 7 November 1997).

5. DOCUMENTS CONCERNING THE WORK OF THE WORKING GROUP OF THE UNIDROIT STUDY GROUP TO CONSIDER THE LEGAL AND TECHNICAL ISSUES RAISED BY THE ESTABLISHMENT OF AN INTERNATIONAL REGISTER ISSUED BY UNIDROIT

Study LXXIIC – Doc. 1 – Exploratory report prepared by Professor R.C.C. Cuming (University of Saskatchewan).


6. DOCUMENTS CONCERNING THE WORK OF THE AIRCRAFT PROTOCOL GROUP ISSUED BY UNIDROIT

Study LXXIID – Doc. 1 – Preliminary draft UNIDROIT Convention on International Interests in Mobile Equipment (as established by the Study Group at the conclusion of its fourth session, held in Rome from 3 to 7 November 1997); preliminary draft Protocol on Matters specific to Aircraft Equipment (as established by a working group organised by Mr J. Wool, expert consultant to the Study Group on international aviation finance matters, at the invitation of the President, at the conclusion of its second session, held in Geneva from 19 to 21 November 1997).
LIST OF KEY DOCUMENTS
CONVENTION AND AIRCRAFT PROTOCOL

7. DOCUMENTS CONCERNING THE WORK OF THE UNIDROIT STEERING AND REVISIONS COMMITTEE FOR THE FINALISATION OF THE PRELIMINARY DRAFT UNIDROIT CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT AND THE PRELIMINARY DRAFT PROTOCOL THERETO ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT ISSUED BY UNIDROIT

Study LXXII – Doc. 39 – Preliminary draft UNIDROIT Convention on International Interests in Mobile Equipment (as established by the Study Group at the conclusion of its fourth session, held in Rome from 3 to 7 November 1997, and revised by the Chairman of the Study Group).

Study LXXIId – Doc. 2 – Preliminary draft UNIDROIT Convention on International Interests in Mobile Equipment (as established by the Study Group at the conclusion of its fourth session, held in Rome from 3 to 7 November 1997, and revised by the Chairman of the Study Group): preliminary draft Protocol on Matters specific to Aircraft Equipment (as established by a working group organised and chaired by Mr J. Wool, expert consultant to the Study Group on international aviation finance matters, at the invitation of the President, at the conclusion of its second session, held in Geneva from 19 to 21 November 1997, and revised by the Chairman of the Study Group in collaboration with Mr Wool).


Study LXXII – Doc. 42 – Preliminary draft UNIDROIT Convention on International Interests in Mobile Equipment (as established by an UNIDROIT Study Group and revised, in accordance with a decision taken by the UNIDROIT Governing Council at its 77th session, held in Rome from 16 to 20 February 1998, by a Steering and Revisions Committee, meeting in Rome from 27 to 29 June 1998).

Study LXXIId – Doc. 3 – Preliminary draft Protocol to the preliminary draft UNIDROIT Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment (as established by a working group organised, at the invitation of the President, by Mr J. Wool, expert consultant to the Study Group on international aviation finance matters to the UNIDROIT Study Group for the preparation of uniform rules on international interests in mobile equipment, and revised, in accordance with a decision
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taken by the UNIDROIT Governing Council at its 77th session, held in Rome from 16 to 20 February 1998, by a Steering and Revisions Committee, meeting in Rome from 27 to 29 June 1998).


8. DOCUMENTS CONCERNING THE JOINT SESSIONS OF THE UNIDROIT COMMITTEE OF GOVERNMENTAL EXPERTS FOR THE PREPARATION OF A DRAFT CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT AND A DRAFT PROTOCOL THERETO ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT, AND OF THE SUB-COMMITTEE OF THE ICAO LEGAL COMMITTEE ON THE STUDY OF INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT (AIRCRAFT EQUIPMENT) ISSUED JOINTLY BY UNIDROIT AND ICAO

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Report
First Joint Session (Rome, 1-12 February 1999): report

2-Report
Second Joint Session (Montreal, 24 August – 3 September 1999): report

3-WP/2

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Public International Law Working Group (Cape Town/en route to Pretoria, 8 – 11 December 1999): report

3-Report

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9. **DOCUMENTS ISSUED BY ICAO IN CONNECTION WITH THE DEVELOPMENT OF THE MOBILE EQUIPMENT CONVENTION AND AN AIRCRAFT EQUIPMENT PROTOCOL**

LC/31-WP/3-4 – Report of the Rapporteur on International Interests in Mobile Equipment (Aircraft Equipment) to the 31st Session of the Legal Committee of ICAO.

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LIST OF KEY DOCUMENTS

published by UNIDROIT in connection with
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STUDY LXXII J – DRAFT PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO SPACE ASSETS

Doc. 1 – 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 (Rome, 18/19 October 2000): Report (prepared by the UNIDROIT Secretariat).


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. Nesgos, Esq., co-ordinator of the Working Group).

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.).

Doc. 5 – Space Working Group (Seal Beach, California, 23/24 April 2001): Report (prepared by the UNIDROIT Secretariat).

Doc. 6 – Preliminary draft Protocol on Matters specific to Space Property (as established by a working group, organised, at the invitation of the President, by Peter D. Nesgos, Esq., with the assistance of Dara A. Panahy, Esq., at the conclusion of its third session, held in Seal Beach, California on 23 and 24 April 2001).
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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).


Doc. 9 – Preliminary draft Protocol on Matters specific to Space Assets as further amended pursuant to the discussions at its fifth session, held in Rome on 30 and 31 January 2002).

Doc. 10 rev. Preliminary draft Protocol on Matters specific to Space Assets revised by a Steering and Revisions Committee, meeting in Rome on 1 February 2002).


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).

Doc. 14 – 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. Summary report (prepared by the UNIDROIT Secretariat).

Doc. 15 – 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. Summary report (prepared by the UNIDROIT Secretariat).
LIST OF KEY DOCUMENTS
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Doc. 16 – 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. Summary report (prepared by the UNIDROIT Secretariat).


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 (FIRST SESSION, ROME, 15 – 19 DECEMBER 2003)

C.G.E. Space Pr./1/W.P. 1 – Draft agenda.


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. Nesgos, 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).


C.G.E. Space Pr./1/W.P. 6 – 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 (prepared by the UNIDROIT Secretariat).


C.G.E. Space Pr./1/W.P. 8 – 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. 11 – 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. 12 – Comments (by the Delegation of India).


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 delegation of Mexico concerning public services).


C.G.E. Space Pr./1/W.P. 20 – Proposal (by the delegation of India concerning the relationship with Outer Space Treaties).

LIST OF KEY DOCUMENTS
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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).


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 (SECOND SESSION, ROME, 26/28 OCTOBER 2004)


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 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./2/W.P. 5 – The preliminary draft Protocol to the Cape Town Convention on International Interests 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 cooperation with the Malaysian National Space Agency and the Space Working Group, Kuala Lumpur, 22 / 23 April 2004); Summary report (prepared by the UNIDROIT Secretariat).

C.G.E./Space Pr./2/W.P. 6 – Comments by the Government of the United States of America.
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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.

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: SUB-COMMITTEE TO EXAMINE CERTAIN ASPECTS OF THE FUTURE INTERNATIONAL REGISTRATION SYSTEM FOR SPACE ASSETS (FIRST MEETING, ROME, 26/27 OCTOBER 2009)

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 1(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 (United Kingdom) and Mr J.M. Deschamps (Canada) (prepared by the UNIDROIT Secretariat).

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 (THIRD SESSION, ROME, 7/11 DECEMBER 2009)

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).

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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 memorandum on provisions of the alternative text implementing policy issues referred to and examined by the Steering Committee, by Professor Sir Roy Goode (United Kingdom) and Mr Michel Deschamps (Canada).

C.G.E./Space Pr./3/W.P. 6 rev. – Comparative table of the 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 text 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 (United Kingdom) and Mr Michel Deschamps (Canada) (UNIDROIT 2009 C.G.E. Space Pr./3/W.P. 5 rev.)) (prepared by the UNIDROIT Secretariat).

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).

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 (United Kingdom) and Mr Michel Deschamps (Canada).

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

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. 19 – Comments on the alternative text submitted by Intelsat and SES.


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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 (FOURTH SESSION, ROME, 3/7 MAY 2010)

C.G.E./Space Pr./4/W.P. 1 rev. – Revised draft agenda (prepared by the UNIDROIT 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).

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).

C.G.E./Space Pr./4/W.P. 4 rev. – Comments submitted by the Governments of the People’s 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. 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).


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).

C.G.E./Space Pr./Inters’l meetings/Consultns/W.P. 3 – Comments submitted by SKY Perfect JSAT Corporation.

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.
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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: INTERSESSIONAL MEETING OF THE INFORMAL WORKING GROUP ON DEFAULT REMEDIES IN RELATION TO COMPONENTS (ROME, 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).


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: INTERSESSIONAL MEETING OF THE INFORMAL WORKING GROUP ON LIMITATION ON REMEDIES (ROME, 20/21 OCTOBER 2010)

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 note on the draft agenda (prepared by the UNIDROIT Secretariat).

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 (FIFTH SESSION, ROME, 21/25 FEBRUARY 2011)

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.


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. 3 – Comments submitted by Ms Pamela Meredith, Zuckert Scoult & Rasenberger, L.L.P.


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).

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C.G.E./Space Pr./5/W.P. 12 – Proposal for a new Article IX(2) (presented by the delegation of Mexico).


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).


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).


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.

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THE CAPE TOWN CONVENTION AND SPACE PROTOCOL: DECLARATIONS MATRIX

References are to the Convention ("C-Art") and Space Protocol ("P-Art")

**Explanatory Notes:** The entries in Column B attribute the declarations to one of the following 5 categories of declaration described in paragraph 2.269: Opt-in ("OPI"), Opt-out ("OPO"), Declaration relating to State’s Own Laws ("SOL"), Mandatory ("MND"), Other ("OTH"). The declaration under Article 54(2) of the Convention must be made at the time of a State’s deposit of its instrument of ratification, acceptance, approval of, or accession to, the Space Protocol. All other declarations under the Convention as it relates to space assets may be made by States at that time or subsequently. The declarations by Regional Economic Integration Organisations under Article 48(2) of the Convention and Article XXXVII of the Space Protocol must be made at the time of a Regional Economic Integration Organisation’s signature, acceptance, approval or accession. All declarations other than those under Article 60 of the Convention may be modified or replaced by a subsequent declaration or be withdrawn.

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<td>P-Art. XLIII(1); C-Art 18(5)</td>
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<td>16.</td>
<td>P-Art. XXXVII(2)</td>
<td>Regional Economic Integration Organisations (MND)</td>
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<td>C-Art 48(2) (same topic; thus must be consistent)</td>
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<td>17.</td>
<td>P-Art. XXXIX</td>
<td>Territorial Units (SOL)</td>
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<td>P-Art. XLIII(1); C-Art. 52(1) (same topic; thus must be consistent)</td>
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