

DRAFTING COMMITTEE

PROPOSAL

(submitted by the Delegation of the United States of America)

PRELIMINARY DRAFT UNIDROIT CONVENTION
ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT

Article 1

Defined terms

1. - In this Convention the following words are employed with the meanings set out below:

“agreement” means a security agreement, a title reservation agreement or a leasing agreement;

“applicable” law means the law applicable by virtue of the rules of private international law;

“assignment” means a consensual transfer, whether by way of security or otherwise, which confers on the assignee rights in the international interest;

“associated rights” means all rights to payment or other performance by the obligor under an agreement or a contract of sale secured by or associated with ~~the~~ an object;

“buyer” means a buyer under a contract of sale;

“chargee” means the grantee of an interest in an object under a security agreement;

“chargor” means the grantor of an interest in an object under a security agreement;

“conditional buyer” means the buyer under a title reservation agreement;

- “conditional seller” means the seller under a title reservation agreement;
- “contract of sale” means a contract for the sale of an object which is not an agreement;
- “court” means a court of law or an administrative or arbitral tribunal established by a Contracting State;
- “Intergovernmental Regulator” means, in respect of any Protocol, the intergovernmental regulator referred to in Article 17(1);
- “international interest” means an interest to which Article 2 applies and which is constituted in conformity with Article 8;
- “International Registry” means the international registry referred to in Article 16(3);
- “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;
- “object” means ~~an~~ a uniquely identifiable object of a category listed in Article 3 covered by a protocol;
- “obligee” means the chargee under a security agreement, the conditional seller under a title reservation agreement or the lessor under a leasing agreement;
- “obligor” means the chargor under a security agreement, the conditional buyer under a title reservation agreement, the lessee under a leasing agreement [or the person whose interest in an object is burdened by a registrable non-consensual right or interest];
- “officially organized obligor” means an obligor organized solely under the laws of a single State or political subdivision of a State if the State or subdivision must maintain a public record indicating that the obligor has been organized.
- “prospective assignment” means an assignment that is intended to be made in the future, ~~whether or not~~ upon the occurrence of an uncertain event, whether or not the occurrence of the event is uncertain;
- “prospective international interest” means an interest that is intended to be created or provided for as an international interest in the future, ~~whether or not~~ upon the occurrence of an uncertain event, whether or not the occurrence of the event is uncertain;
- “principal place of business” means, if an obligor has more than one place of business, the obligor’s [headquarters] [chief executive] office.
- “prospective sale” means a sale which is intended to be made in the future, ~~whether or not~~ upon the occurrence of an uncertain event, whether or not the occurrence of the event is uncertain;

“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;

“Qualified proceeds” means proceeds of an object payable by virtue of the loss or physical destruction of the object or payable by a Government or State entity in respect of the confiscation, condemnation, or requisition of the object

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

“registered interest” means an international interest [or a registrable non-consensual right or interest] registered pursuant to Chapter V;

{“registrable non-consensual right or interest” means a right or interest registrable pursuant to an instrument deposited under Article 39;}

“Registrar” means, in respect of any category of object and associated rights to which this Convention applies, the person designated under Article 17(3);

“regulations” means regulations made, pursuant to the Protocol, by the Intergovernmental Regulator under Article 17(4);

“sale” means a transfer of ownership pursuant to a contract of sale;

“secured obligation” means an obligation secured by a security interest;

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

“security interest” means an interest created by a security agreement;

“surety” means any guarantor, surety or other credit insurer under a guarantee (including a demand guarantee and a standby letter of credit) or credit insurance given to the chargee;

“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 [or non-consensual right or] interest [(other than an interest to which Article 40 applies)] which has not been registered, whether or not it is registrable under this Convention; and

“writing” means an authenticated record of information (including information sent by teletransmission) which is in tangible form or is capable of being reproduced in tangible form.
[Consider conforming to UNCITRAL or other definition.]

2. - In this convention words in the singular include the plural and words in the plural include the singular.