

DRAFTING COMMITTEE

PROPOSAL

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

Article 1

“authenticate” means, with respect to a writing, to sign, execute, encrypt, or process the writing in a reasonable manner with the present intent of the authenticating person to identify the person and adopt or accept the writing;

“Qualified proceeds” means proceeds of an object payable by virtue of the loss, damage, 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~~ by a Government or State entity;

“writing” means a record of information (including information obtained by teletransmission) which is in tangible form or is capable of being reproduced in tangible form ~~and which indicates by reasonable means the person sending the record and that person’s approval of it.~~

Article 8

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

- (a) is in a writing authenticated by the chargor, seller, or lessor;

Article 9

1. – In the event of default in the performance of a secured obligation or any of the chargor's obligations under the security agreement, to the extent the chargor has so agreed ~~by the chargor~~, the chargee may exercise any one or more of the following remedies:

Article 15

1. – A Contracting State shall ensure that an obligee who adduces *prima facie* evidence of default by the obligor may, to the extent the obligor has so agreed, pending final determination of its claim, obtain speedy judicial relief in the form of ~~any one or more of~~ the following orders if requested by the obligee:

- (a) preservation of the object and its value;
- (b) possession, control, and custody ~~or management~~ of the object;
- (c) immobilisation of the object;
- (d) sale, or lease, or management of the object;
- (e) application of the proceeds or income of the object;
- ~~(e) immobilisation of the object.~~

2. – The court may impose such terms for the grant of relief under subparagraphs (d) or (e) of the preceding paragraph as will protect the obligor in the event that the obligee:

(a) in implementing any order granting such relief fails to perform any of its obligations under this Convention, or

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

Article Z
ALTERNATIVE I

A Contracting State may declare at the time of signature, ratification, acceptance, approval of, or accession to the Protocol that:

(a) it will not apply the provisions of Article 15, wholly or in part; and

(b) its courts may impose such terms for the grant of relief under subparagraphs (d) or (e) of Article 15(1) as will provide appropriate protection for the interests of the obligor as specified in the declaration.

Article Z
ALTERNATIVE II

A Contracting State may declare at the time of signature, ratification, acceptance, approval of, or accession to the Protocol that:

(a) it will not apply the provisions of Article 15, wholly or in part; and

(b) its courts may impose such terms for the grant of relief under subparagraphs (d) or (e) of Article 15(1) as will protect the obligor in the event that the obligee:

(i) in implementing any order granting such relief fails to perform any of its obligations under this Convention, or

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

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