



INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW
INSTITUT INTERNATIONAL POUR L'UNIFICATION DU DROIT PRIVE

**DIPLOMATIC CONFERENCE FOR THE ADOPTION
OF THE DRAFT PROTOCOL TO THE CONVENTION
ON INTERNATIONAL INTERESTS IN MOBILE
EQUIPMENT ON MATTERS SPECIFIC TO
SPACE ASSETS**

Berlin, 27 February / 9 March 2012

UNIDROIT 2012
DCME-SP – Doc. 21
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**SUMMARY REPORT
FOR 1 MARCH 2012**

EIGHTH MEETING OF THE COMMISSION OF THE WHOLE

Item No. 8 on the Agenda: consideration of the draft Protocol (continued)

1. The Chairman opened the meeting 11.45 a.m.
2. The Secretary-General informed the Commission that the informal working group working on a proposal for a new Article XXVI had had a very productive meeting the previous evening and that an alternative text that reflected the various proposals tabled was being drafted. The members of that working group were invited to meet again in order to reach a final agreement with a view to presenting its proposal to the Commission the following day.

Re: Article XXXII: Waiver of sovereign immunity

3. One delegation indicated that it might be appropriate to give a more precise description of a space asset in paragraph 2 in order to avoid confusion as to which assets were specifically the subject of this provision.
4. This Article was adopted without amendment but with the proviso that the Official Commentary should clarify that the applicability of the waiver of sovereign immunity would not apply to third parties.

Re: Article XXXIII: Relationship with the UNIDROIT Convention on International Financial Leasing

5. This Article was adopted without amendment.

Re: Article XXXIV: Relationship with the United Nations Outer Space Treaties and instruments of the International Telecommunication Union

6. This Article was adopted without amendment.

Re: Title of the draft Protocol

7. The title was approved without amendment.

Re: Preamble to the draft Protocol

8. It was proposed by some delegations that the second and fifth clauses of the preamble be amended by replacing the word "need" by the words "potential benefits".

9. Another delegation recommended inserting the word "potentially" in paragraph 3 before the word "yield". However, it was stressed that the extensive use of the word "potential" would undermine the aims of the draft Protocol.

10. Another delegation put forward a proposal to replace the term "mindful" at the beginning of the second, third and fourth clauses of the preamble by the words "desirous", "recognising" and "noting" respectively, in order to avoid the repetitive use of the word "mindful".

11. One delegation wondered whether paragraph 3 might not be clarified by adding the words "of such services" after the word "financing".

12. In the light of the numerous proposals made in respect of the preamble, the Chairman asked those States which had made proposals to submit them in writing so that the Commission could consider them in a more informed manner.

13. The Chairman adjourned the meeting at 12.50 p.m.

NINTH MEETING OF THE COMMISSION OF THE WHOLE

Item No. 8 on the Agenda: consideration of the draft Protocol (continued)

14. The Chairman opened the meeting at 4.25 p.m.

Re: Article XXX: Identification of space assets for registration purposes

15. A joint proposal was presented to the Commission (DCME-SP- Doc. 12) under which the words "serial number" would be replaced by the words "identification number". The sponsors of this proposal considered that it would be sufficient for the "identification number" to be any number "uniquely associated to the space asset" - a phrase which was used in Article XIV(1) of the Luxembourg Protocol. It was felt that this criterion would help ensure the flexibility required by the draft Protocol, which would invariably have to cover a variety of products.

16. One delegation submitted that this proposal was in line with the current practice in industry to assign numbers to space assets and that this approach would enable the draft Protocol to cover high-value components.

17. One delegation raised the concern that it might be difficult to assign a single identification number to a space asset, in particular because objects contained many parts with numbers and it would create unmanageable confusion to try and determine which of these numbers should be employed for a given asset. This delegation considered the serial number to be the appropriate criterion. Additionally, it proposed that supplementary identification criteria be submitted on a voluntary basis.

18. Other delegations felt that having mandatory criteria for registration purposes might limit the scope of the draft Protocol, particularly in those cases where not all the criteria required under this proposal were available, and wondered whether it might not be possible to add the words “to the extent available”.
19. The Reporter pointed out that the criteria necessary to identify a space asset for the purposes of registration would vary and wondered whether it might not be more appropriate to use language which would refer to the identification criteria prescribed by the regulations.
20. This proposal found broad support and was adopted, with the specific language being left to be determined by the Drafting Committee.

Re: Article XXVI: Limitations on remedies

21. A joint proposal was presented to the Commission on behalf of the informal working group on Article XXVI (DCME-SP – Doc. 13 corr.), which was felt to be appropriate in the light of the concerns that had been expressed regarding this Article.
22. One delegation noted that the French version of paragraph 2 was not in line with the English version.
23. It was agreed that the joint proposal was acceptable in principle but that it be referred to the Drafting Committee for linguistic improvement.
24. The Chairman adjourned the meeting at 5.25 p.m.