



INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW
INSTITUT INTERNATIONALE 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**

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**REPORT
FOR 2 MARCH 2012**

TENTH 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 at 10.30 a.m.

Re: Article IV(4) and (5): Application of the Convention to sales and salvage interests

2. A proposal was presented to the Commission (DCME-SP - Doc. 15) which sought to amend the current approach to dealing with salvage insurance. This proposal contained new language to be embodied in Article IV and an amendment to the definition of "salvage" in Article I. There was broad support for this proposal and it was adopted.

Re: Articles XXVIII: The Supervisory Authority

3. The observer of the International Civil Aviation Organization (ICAO) recalled his Organisation's experience in acting as Supervisory Authority under the Aircraft Protocol, noting in particular that ICAO had accepted this role on the conditions that such a function would not cause any additional financial burden to that Organisation and that its rules of immunity would continue to apply. The observer stressed its collaboration with industry in respect of the work of the Preparatory Commission and during the sessions of the working group that prepared the first regulations.

4. The observer of the International Telecommunication Union (I.T.U.) indicated to the Commission, on behalf of the Secretary-General of I.T.U., that that Organisation continued to express interest for I.T.U. to become the Supervisory Authority but that the matter of whether or not I.T.U. would become Supervisory Authority should not be prejudged. He further indicated that in July 2012 the I.T.U. Secretary-General would be reporting to the I.T.U. Council which would be considering this issue in the light of the outcome of the diplomatic Conference, taking into account the financial, juridical and technical implications of the I.T.U.'s assumption of the role of Supervisory Authority. This observer noted that a final decision would be taken by the I.T.U. plenipotentiary Conference to be held in October 2014.

5. In the light of this statement, one delegation proposed that, pending conclusion of the I.T.U.'s deliberations on the possibility of its assumption of the role of Supervisory Authority, a Preparatory Commission should be established by the Conference to act as Provisional Supervisory Authority, so that steps could be taken to lay the groundwork for the future International Registry for space assets, adding that representatives of industry should be invited to participate in the work of the Preparatory Commission as observers. He indicated that the Preparatory Commission could be empowered to appoint the Supervisory Authority and to select a future Registrar. This proposal was broadly supported by delegations.
6. One delegation proposed that paragraph 3 of this Article should be mandatory. This proposal was also broadly supported.
7. Subject to the necessary amendment to paragraph 3 being made by the Drafting Committee, this Article was adopted.

Re: Article XXIX: First regulations

8. This Article was adopted without amendment.

Re: Article XXXII: Waiver of sovereign immunity

9. This Article was adopted without amendment.

Re: Article XXI: Remedies on insolvency

10. The delegation that had proposed deleting Alternative B of this Article, finding little support for its proposal, withdrew it. This Article was, therefore, adopted without amendment.

Re: Article XXVI: Excluded matters

11. One delegation expressed concern with the proposed new text of sub-paragraph 2(b), noting that it contained some ambiguity as to the intention behind this provision, which might have an adverse effect on States' ability to regulate the assignment and use of orbital positions and frequencies. It was agreed that this concern should be dealt with in the future Official Commentary.
12. The Chairman adjourned the meeting of the Commission at 12.50 p.m.

FOURTH MEETING OF THE PLENUM

Item No. 7 on the Agenda: examination by the Conference of the Report of the Credentials Committee

13. In the absence of the President, Mr H.S. Burman (Vice-President of the Conference) opened the meeting at 12.50 p.m. and invited Mr E. Zoungrana (Chairman of the Credentials Committee) to present the interim report of the Credentials Committee.
14. The Chairman of the Credentials Committee noted that that Committee was made up of the delegations of Burkina Faso, France, Germany, Japan and the Russian Federation. He further noted that the Credentials Committee had met three times, twice on 28 February and again on 2 March 2012.

15. The Chairman of the Credentials Committee reported that as of 9.45 a.m., 38 States and one Regional Economic Integration Organisation, four intergovernmental Organisations, four international non-governmental Organisations and 13 technical advisers had registered for the Conference. He further reported that of these participants, credentials in proper form had been received from 26 States, one Regional Economic Integration Organisation, two intergovernmental Organisations, two international non-governmental Organisations and 13 technical advisers. He also noted that seven States had submitted Full Powers.
16. Pursuant to Rule 4 of the Rules of Procedure of the Conference, the Chairman of the Credentials Committee urged those participants not yet having submitted their credentials to the Secretariat to do so as soon as possible.
17. The Vice-President of the Conference adjourned the meeting at 1 p.m.

ELEVENTH MEETING OF THE COMMISSION OF THE WHOLE

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

18. The Chairman of the Commission opened the meeting at 4.15 p.m.

Re: Preamble

19. One delegation presented a proposal (DCME-SP - Doc. 14) for amending the language of the preamble to the draft Protocol. In particular, this proposal sought to change the use of the word "mindful" in the second, third and fourth clauses, noting that the use of this one word was overly repetitious. This proposal found some support and it was left to the Drafting Committee to find suitable language to deal with this concern.
20. One delegation expressed concern with the use of the words "will yield" in the third clause of the preamble. It was agreed that these words should be changed to read "may yield".
21. One delegation proposed deleting the word "established" in the fourth clause of the preamble. It was so agreed.
22. In the light of another proposal which had been tabled earlier in the discussions by a delegation, it was agreed to refer this provision to the Drafting Committee to see how reference to the United Nations international space treaties might best be achieved in the preamble.
23. One delegation proposed deleting the words "recognising the need for" appearing in the second line of the fifth clause of the preamble. It was proposed that these words be replaced by the words "contemplating the expected benefits of". It was so agreed.
24. The preamble, as amended, was adopted.

Re: Article XVII(3) - Modification of default remedies provisions as regards space assets

25. A joint proposal (DCME-SP –Doc. 17) designed to deal with the concerns surrounding the issue of default remedies in relation to components was submitted. One of the delegations that put forth this proposal indicated that it was felt that the proposal met the needs of both the credit industry and those having an interest in components. In respect of the text in square brackets at the beginning of paragraph 3, it was noted that this language served the purpose of clarifying that this provision was not intended to affect inter-creditor agreements

in any way. It was also recommended that a proposed transitional provision be referred to the Drafting Committee in order to ensure the priority of existing international interests. Finally, it was emphasised that in order for this provision to have the desired effect, the regulations of the International Registry would have to provide for the notification of international interests in physically-linked space assets. It was proposed that this last point should be embodied in a Resolution of the Conference.

26. This proposal met with widespread support and was adopted.

Re: Article XXVII - Limitations on remedies in respect of public service

27. A joint proposal (DCME-SP - Doc. 18) was laid before the Commission that was felt to be capable of dealing with the concerns of both States and the commercial space sector. There was broad support for this proposal, though some delegations noted that they would need time to consider this proposal before it could be adopted.

28. It was agreed to postpone discussion of this proposal until the following meeting.

29. The Chairman adjourned the meeting at 6.10 p.m.