



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

**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**

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REPORT

ON THE WORK OF THE INFORMAL WORKING GROUP ON LIMITATIONS ON REMEDIES

(prepared by the UNIDROIT Secretariat)

1. The Informal Working Group on limitations on remedies set up by the Committee of governmental experts at its second session held two meetings on 5 and 6 May 2010. Representatives of the following States participated in its work: Algeria, Canada, the Czech Republic, the People's Republic of China, France, Germany, Italy, Japan and the United States of America. Ms C. Dubreuil (EADS Astrium), Mr O. Heinrich (BHO Legal Partnership), Ms M. Leimbach (Crédit Agricole S.A.) and Mr B. Schmidt-Tedd (German Space Agency) participated as observers. The meetings were chaired by the Secretary-General of UNIDROIT.

2. It was agreed that the discussion proposal set out below, designed to reflect the extensive discussions held by the Informal Working Group should be laid before the Committee of governmental experts for consideration. It was further agreed that this discussion proposal should be presented in the form of two technical approaches to one concept.

DISCUSSION PROPOSAL

SETTING OUT TWO TECHNICAL APPROACHES TO ONE CONCEPT

CONCEPT

Contractual obligations for the provision of public services should be maintained both where a creditor is exercising its rights under the Convention as applied to space assets and where the ownership of a space asset is being transferred.

TWO TECHNICAL APPROACHES TO ACHIEVE THIS GOAL

1. *Rights approach*

Article ...

1. A lease of a space asset for the provision of public services which is so acknowledged by the parties may be registered by notice in accordance with Article 16 of the Convention.
2. The registration of a notice of a public services lease made within a six-month period after the date of launch of a satellite prevails over other rights previously registered.
3. Any transfer of ownership of a space asset, either through a sale or through the exercise of the remedies provided in Chapter III of the Convention and Chapter II of this Protocol, is subject to the previously registered lease notice. The transferee is bound by the obligations of the lessor under the lease.
4. Any lease registered by notice under paragraph 2 which is in breach of a previously registered financing contract may be struck from the International Registry at the request of the creditor.

2. *Remedies approach*

Article ...

1. The creditor may not exercise the remedies provided in Chapter III of the Convention and Articles XVIII to XXIII of this Protocol in respect of a space asset which is used for the provision or maintenance of a public service, to the extent that this could interfere with the contractual obligations of the debtor concerning the provision or maintenance of the public service.
2. The preceding paragraph shall only apply if a notice is registered in the International Registry recording that the debtor is contractually obliged to provide or maintain public service through that space asset
 - (a) prior to the registration of the international interest in that space asset by the creditor exercising remedies or
 - (b) within [six months] from the date of launch of the space asset, even if after the registration of the international interest by the creditor.

Such a notice can be registered by the parties to the contract or by the State to which the public service is provided.