



**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
Third session
Rome, 7/11 December 2009**

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REPORT OF THE DRAFTING COMMITTEE

The Drafting Committee in the composition established by the Committee of governmental experts on 8 December 2009, met on 8 December 2009 from 5.45 p.m. to 8.30 p.m., on 9 December 2009 from 6 p.m. to 7.20 p.m., on 10 December 2009 from 4 p.m. to 8 p.m. and on 11 December from 9.30 a.m. to 11 a.m.

The following delegations were represented on the Drafting Committee: Canada, the People's Republic of China, France, the Russian Federation, Senegal, the United Kingdom and the United States of America. Ms Martine Leimbach (Credit Agricole S.A.) participated as an observer.

Sir Roy Goode (United Kingdom) and Mr Michel Deschamps (Canada) acted as co-Chairmen of the Drafting Committee.

The Drafting Committee agreed to take the alternative text (technical amendments) (W.P. 8 rev.) as a basis for its work and agreed to the following amendments:

TEXT OF THE PROVISIONS CONSIDERED AND REVISED BY THE DRAFTING COMMITTEE

(revisions highlighted)

Article I – Defined terms

Article I(2)(a)

(a) "controlled", in relation to goods, technology, data or services to which Article XXVII(2) applies means that their transfer is subject to governmental ~~requirements or~~ restrictions;

Article I(2)(b)

(b) “debtor’s rights” means all rights to payment or other performance due or to become due to a debtor by any person with respect to a space asset;

Article I(2)(l)

(l) “space asset” means any man-made uniquely identifiable ~~satellite asset, satellite bus, satellite transponder, payload, space station, space vehicle, reusable launch vehicle, reusable space capsule or any module or other object, in each case only where~~ [capable of being independently owned, used or controlled,] in space or intended to be launched ~~in or~~ into space without losing its distinct identity or used or intended to be used as a launch vehicle, such as a satellite, space station, satellite bus, transponder, module, space vehicle, launch vehicle or space capsule [including any such asset in course of manufacture or assembly,] together with all ~~modules and other~~ installed, incorporated or attached accessories, parts and equipment and all data, manuals and records relating ~~thereto~~ to its ownership, use or control.

Article IV – Application of the Convention to sales

1. The following provisions of the Convention apply as if references to an agreement creating or providing for an international interest were references to a contract of sale and as if references to an international interest, a prospective international interest, the debtor and the creditor were references to a sale, a prospective sale, the seller and the buyer respectively:

Articles 3 and 4;
 Article 16(1)(a);
 Article 19(4);
 Article 20(1) (as regards registration of a contract of sale or a prospective sale);
 Article 25(2) (as regards a prospective sale); and
 Article 30.

2. The provisions of this Protocol applicable to rights assignments also apply to an assignment to the buyer of a space asset of rights to payment or other performance due or to become due to the seller by any person in respect of the space asset, with the references in these provisions to the debtor and the creditor being read as referring to the seller and the buyer respectively.

3. In addition, the general provisions of Article 1, Article 5, Chapters IV to VII, Article 29 (other than Article 29(3) which is replaced by Article XXIV), Chapter X, Chapter XII (other than Article 43), Chapter XIII and Chapter XIV (other than Article 60) ~~shall~~ apply to contracts of sale and prospective sales.

Article IX – Formal requirements for rights assignment

An assignment of debtor’s rights is constituted as a rights assignment where it is in writing and enables:

(a) the debtor's rights the subject of the rights assignment agreement to be identified;

- (b) the space asset to which those rights relate to be identified; and
- (c) in the case of a rights assignment by way of security, the obligations secured by the agreement to be determined, but without the need to state a sum or maximum sum secured.

Article X – Effects of rights assignment

- 1. – ~~Except as otherwise agreed by the parties, a~~ rights assignment made in conformity with Article IX transfers to the creditor ~~all~~ debtor's rights the subject of the rights assignment to the extent permitted by the applicable law.
- 2. – Subject to paragraph 3, the applicable law shall determine the defences and rights of set-off available to the grantor of debtor's rights against the creditor.
- 3. – The grantor of debtor's rights may at any time by agreement in writing waive all or any of the defences and rights of set-off referred to in the preceding paragraph other than defences arising from fraudulent acts on the part of the creditor.

Article XII – Recording of rights assignment as part of registration of international interest

- 1. – The holder of an international interest or prospective international interest in a space asset ~~to on~~ whom the debtor has ~~granted~~ conferred an interest in or over debtor's rights under a rights assignment or who has acquired such an interest by subrogation may, when registering the international interest or prospective international interest or subsequently by amendment to such registration, record the rights assignment or acquisition by subrogation as part of the registration. Such record may identify the ~~assigned~~ rights so assigned or acquired either specifically or by a statement that the debtor has assigned, or the holder of the international interest or prospective international interest has acquired, all or some of the debtor's rights, without further specification.

Article XXX – Identification of space assets for registration purposes

- 1. – With respect to a space asset that has not been A-launched, a description of a ~~satellite~~ the space asset that contains the name of ~~the~~ its manufacturer, its manufacturer's serial number, and its model designation, the model, the launch site, the launch date, the orbital parameters (including inclination, nodal period, apogee and perigee), and the general function of the space asset, and satisfies such other requirements as may be established in the regulations, is necessary and sufficient to identify the space asset for the purposes of registration in the International Registry.
- 2. – ~~{Insert separate identification criteria for each other category of space asset, incorporating a similar reference to additional criteria prescribed by the regulations}.~~ With respect to a space asset that has been launched, a description of the space asset that contains the date and time of its launch, its launch site, the name of its launch provider and [...], is necessary and sufficient to identify the space asset for the purposes of registration in the International Registry.