



**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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C.G.E./Space Pr./3/W.P. 21
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**SUMMARY REPORT
FOR
9 DECEMBER 2009**

(prepared by the UNIDROIT Secretariat)

Opening of the session

Agenda Item No. 3 on the revised draft agenda (*continued*)

F. LIMITATIONS ON REMEDIES (Article XVI(3) of the preliminary draft Protocol / Article XXVII(3) of the alternative text (policy issues)) (*continued*)

1. The Chairman opened the session at 9.58 a.m.
2. One delegation noted the need for transparency and flexibility in respect of limitations on default remedies and questioned whether the existing proposals fully satisfied that need.
3. The Chairman proposed the formation of a working group further to discuss this item with a view to developing a proposal to be referred back to the Committee. The following delegations were appointed to the working group:

- the People's Republic of China;
- the Czech Republic;
- France;
- Germany;
- Greece;
- India;
- Spain; and
- the United States of America.

The first meeting of the working group was to be held the following morning at 8.30 a.m.

Agenda Item No. 4 on the revised draft agenda: consideration of that part of the Report of the Sub-committee of the Committee to examine certain aspects of the future international registration system for space assets (C.G.E./Space Pr./3/W.P. 7 rev.) not concerning the identification of space assets (*continued*)

G. CONSIDERATION OF THAT PART OF THE REPORT OF THE SUB-COMMITTEE OF THE COMMITTEE TO EXAMINE CERTAIN ASPECTS OF THE FUTURE INTERNATIONAL REGISTRATION SYSTEM FOR SPACE ASSETS (C.G.E./Space Pr./3/W.P. 7 rev.) NOT CONCERNING THE IDENTIFICATION OF SPACE ASSETS

5. The Chairman of the Sub-committee on the future international registration system presented those conclusions that had been reached at that Sub-committee's first meeting and which did not concern the identification of space assets, namely those conclusions regarding the practical operation of the future international registration system and the designation of the future Supervisory Authority.

6. The Secretariat communicated a statement on behalf of the International Mobile Satellite Organisation (I.M.S.O.) regarding the process that would be involved in its consideration of any possible future role as Supervisory Authority.

7. There was a general discussion as to the potential candidates for the role of the future Supervisory Authority, including the International Telecommunication Union, I.M.S.O. and the International Civil Aviation Organization and of the preparations that any of these potential candidates would need to make so as to be in a position to accept that role.

8. The Committee endorsed the conclusions found in the report of the Sub-committee on the future international registration system (not relating to the identification criteria for space assets which was not discussed under this agenda item).

9. The Committee requested the Secretary-General of UNIDROIT, on behalf of the UNIDROIT Governing Council, to approach those Organisations that might be considered as potential candidates for the role of the future Supervisory Authority with a view to giving those Organisations an adequate opportunity to consider their potential suitability for such a role and, as appropriate, to give them the time required to obtain the internal authorisations that would be needed formally to submit their candidacy for such a future role.

Agenda Item No. 3 on the revised draft agenda: consideration of those other provisions of the preliminary draft Protocol not hitherto discussed during the session, with the exception of Chapter VI (Final Provisions), in particular the bracketed language in Article IX(1), Article X[(5)], the bracketed language in Article XII(2), the bracketed language in Article XVI(2), Article XVII(1) and (2), Article XX(1) and [Article XXI *bis*]

H. MODIFICATION OF DEFAULT REMEDIES PROVISIONS (Article IX(1) of the preliminary draft Protocol

10. There was discussion as to the appropriateness of the application of Article IX of the preliminary draft Protocol being made subject to a declaration by a Contracting State and in this respect departing from the approach taken in the corresponding provision in the Aircraft Protocol.

11. There was also discussion as to whether Article IX(4) of the preliminary draft Protocol should be found in a provision dealing with priorities.

12. It was agreed that the text would be the subject of further consideration.

I. MODIFICATION OF PROVISIONS REGARDING RELIEF PENDING FINAL DETERMINATION (Article X[(5)] of the preliminary draft Protocol)

13. It was agreed that, in the light of the potential implications for national laws of Article X[(5)] of the preliminary draft Protocol, the text should be the subject of further consideration.

J. INSOLVENCY ASSISTANCE (Article XII(2) of the preliminary draft Protocol)

14. Following discussion, it was agreed that the square brackets found in Article XII(2) of the preliminary draft Protocol could be removed on the basis that the future Official Commentary would clarify that the phrase "in accordance with the law of the Contracting State" was intended to require only that an action by the courts of the relevant Contracting State was not prohibited and was not intended to convey the idea that the action would need to be specifically authorised by the law of that State.

K. LIMITATIONS ON REMEDIES (Article XVI(2) of the preliminary draft Protocol)

15. Following a discussion in which the purpose of the phrase in square brackets was questioned, it was agreed that no amendment should be made pending further work being done on the question of limitations on remedies in respect of public service.

Agenda Item No. 3 on the revised draft agenda (continued)

16. The representative of one State made a statement referring to the actions of an observer delegation which questioned the extent to which positions taken by that representative correctly reflected the official position of that representative's government. A number of representatives expressed their surprise and deep concern at the situation as it had been described. There was a unanimous expression of solidarity with the representative of the State concerned.

17. In respect of the submission contained in C.G.E./Space Pr./3/W.P. 19, a number of representatives pointed out that the listing in that document of the membership of some of the organisations identified as subscribers of these submissions was misleading insofar as those representatives understood that members of such associations from their States either were opposed to the views expressed in such communications or were not consulted on the content of such communications.

18. In response to a query on the basis on which non-governmental organisations participated in UNIDROIT deliberations, the Secretary-General of UNIDROIT noted that member States had a right to participate in the deliberations of the UNIDROIT, while non-governmental organisations were invited to participate as, primarily, the providers of expert advice on the matters before such meetings and, as such, were expected to observe a normal standard of behaviour.

19. The Secretary-General stressed that the expectation of UNIDROIT and its member States was that representatives of non-governmental Organisations invited to attend UNIDROIT meeting would make constructive use of that privilege.

Agenda Item No. 5 on the revised draft agenda: consideration of technical amendments proposed to the preliminary draft Protocol by Sir Roy Goode and Mr Deschamps, as Co-chairmen of the Drafting Committee (C.G.E./Space Pr./3/W.P. 8 rev.) (hereinafter referred to as the *alternative text (proposed technical amendments)*)

L. DEFINITION OF CONTROLLED GOODS (Article I(2)(a) of the alternative text (proposed technical amendments))

20. Following discussion of this proposed technical amendment, it was agreed that further consideration of the proposal would be required.

M. LOCATION / SITUATION OF SPACE ASSET (Article I(3) of the alternative text (proposed technical amendments))

21. This proposed technical amendment having been discussed earlier in the session, it was not further discussed.

N. EXCLUSION OF SPACE ASSET FROM COVERAGE BY AIRCRAFT PROTOCOL (Article II(3) of the alternative text (proposed technical amendments))

22. There were no comments made on this proposed technical amendment.

O. CHOICE OF LAW IN RESPECT OF RIGHTS ASSIGNMENTS AND RIGHTS REASSIGNMENTS (Article VIII of the alternative text (proposed technical amendments))

23. Following discussion of this proposed technical amendment, it was agreed that further consideration of this proposal would be required.

P. IDENTIFICATION OF SPACE ASSETS (Article VII of the alternative text (proposed technical amendments))

24. There were no comments made on this proposed technical amendment.

25. The Chairman adjourned the session of the Committee at 5.01 p.m.