



Unidroit Committee of governmental experts for the preparation of a draft Convention on International Interests in Mobile Equipment and a draft Protocol thereto on Matters specific to Aircraft Equipment



Sub-Committee of the ICAO Legal Committee on the study of international interests in mobile equipment (aircraft equipment)

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AGENDA ITEM 4: ORGANISATION OF WORK

- (a) BASIC FEATURES OF THE PROPOSED NEW INTERNATIONAL REGIMEN AND ITS ECONOMIC SIGNIFICANCE: A PROGRAMME OF BACKGROUND PRESENTATIONS (CONTINUED)

8. (cont.d) The programme of presentations continued with presentations on the options for a modern international registration system, with illustrations being given of the electronic registration under the Quebec personal property registry (Ms S. Potvin Plamondon, Canada, Director of the Quebec Registry) and of the US

experience of a paper-based system (Mr C.W. Mooney, Jr., United States, Member of the Unidroit Study Group). The final presentation examined the key features of the international registration system provided for under the proposed new international regimen (Mr R.C.C. Cuming, Canada, Member of the Unidroit Study Group and Chairman of the working group set up by the Unidroit Study Group to consider the legal and technical issues raised by the creation of an international registration system). The delegate of Singapore also shared her experience in operating an electronic trade documentation system.

(b) SETTING-UP OF SUB-GROUPS, AS REQUIRED, AND OTHER MATTERS

9. It was agreed to postpone any decision as regards the composition of the Drafting Committee and the setting-up and composition of any other sub-groups.

10. Mr R.M. Goode, who had been Chairman of the Unidroit Study Group and of the Steering and Revisions Committee, was elected Rapporteur to the Joint Session so as to assist delegates by illustrating the decisions taken by these two bodies and the reasons which had led to their adoption.

AGENDA ITEM 5: CONSIDERATION OF THE PRELIMINARY DRAFT UNIDROIT CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT (UNIDROIT 1998, STUDY LXXII – DOC. 42) / PRELIMINARY DRAFT [UNIDROIT] CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT (ICAO REF. LSC/ME-WP/3) (hereinafter: “the preliminary draft Convention”):

GENERAL DISCUSSION

11. A number of delegations stressed the economic importance of this project for aviation industry in particular and its possible repercussions not only for the industries concerned, but also for the economies especially of developing countries and countries with economies in transition. It was however noted that maritime interests in a number of countries did not show particular interest in the project.

12. A number of delegations representing countries with civil law legal systems expressed their concern at an approach which they saw as excessively inspired by the common law legal tradition. A result of this approach was that in many instances the draft Convention as it stood was incompatible with their legal systems. A greater equilibrium had to be attained between the common law and civil law traditions.

13. Other delegations stressed the need to prepare instruments that were economically viable and useful, even if a lesser degree of compromise was obtained from the legal point of view.

14. In relation to the structure of the instruments, questions were raised as regards the advisability of maintaining the present structure of a basic convention with protocols, and suggestions made to adopt the system of the 1944 Chicago Convention with a convention with annexes. It was agreed that this and related questions would be dealt with once the text of the instruments had been examined by the Joint Session.

15. The importance of examining the connection between the national registry systems and the proposed international registry was stressed.

16. The observer from the European Bank for Reconstruction and Development (E.B.R.D.) saw the texts before the Joint Session as representing a remarkable achievement, which would in due course be most useful for the countries of its operations. For the time being, the basic structure for secured financing in these countries was still being developed on the basis of the Model Law on Secured Transactions prepared by the E.B.R.D.

17. The observer from the Hague Conference on Private International Law pointed out that the draft Convention contained conflicts and civil procedure rules and that its rules on these subjects were not always accurate. It was suggested that these issues might be examined in the course of the proceedings.

CONSIDERATION OF THE TEXT OF THE DRAFT CONVENTION

18. One delegation proposed and it was decided that the Drafting Committee should draft a Preamble to the draft Convention.

19. It was agreed to consider the text article by article.

ARTICLE 1

20. A number of delegations queried some of the definitions contained in Article 1 (“agreement”, “applicable law”, “assignment”, “associated rights”, “court”, “prospective assignment”, “prospective international interest”, “prospective sale”, “security agreement”, “surety”, and “writing”). It was decided that the Drafting Committee should re-examine these definitions and clarify the concepts involved.

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