



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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## JOINT SESSION

(Rome, 1 - 12 February 1999)

### DRAFT REPORT

#### PLENARY SESSION

3 February 1999

*paragraphs*

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(b) SETTING-UP OF SUB-GROUPS, AS REQUIRED, AND OTHER MATTERS 21-22

#### 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) (cont.d)  
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#### AGENDA ITEM 4: ORGANISATION OF WORK

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

21. It was agreed that the following States would be members of the Drafting Committee: Canada, Egypt, France, Germany, Japan, Mexico, Republic of Korea, Singapore, South Africa and the USA. It was further agreed that the observers from the Hague Conference on Private International Law, the Aviation Working Group and the International Air Transport Association would attend sessions of the Drafting Committee, as indeed sessions of such other working groups as the Joint Session might decide to set up, as advisers. The Drafting Committee was requested to report back to Plenary on Tuesday, 9 February 1999.

22. It was decided that, for ease of consultation, titles should be drafted for the articles of the draft Convention and a table of contents added at its beginning.

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)

EXAMINATION OF THE TEXT OF THE PRELIMINARY DRAFT CONVENTION (continued):

ARTICLE 2

23. It was decided that the Drafting Committee should give greater clarity to the reference to “applicable law” in Art. 2(3), as a number of delegations had observed that this reference raised numerous problems.

ARTICLE 3

24. It was suggested that the list of categories contained in Art. 3 should be deleted as it raised a number of problems. It was however felt that the concept contained in Art. 3 lit. (i) was important and should be retained in any reformulation of the provision that the Drafting Committee might propose. It was therefore suggested that the Drafting Committee should examine the possibility of deleting the list and modifying the remaining text so as to include the chapeau of Art. 3 and the concept contained in lit. (i) within Art. 2.

ARTICLE 4

25. The question of the relationship between the nationality register and the State-Authorised asset register was raised. Furthermore it was suggested that non-national registries with other functions should be included under this article.

26. It was decided that the Drafting Committee should consider a formulation that would solve the question of the duality in lit. (b). The scope of application of the article should however not be extended too much. It should also consider the problems raised by the rendering of the English term “registered” by the French term “immatriculé” as it was uncertain whether the concepts corresponded exactly. It was also decided that the Drafting Committee should examine the concept of “close connection”. The inter-relationship between Arts. 4 and U should also be considered.

ARTICLE 5

27. A proposal to replace the word “party” by “obligor” was accepted.

28. It was decided that the Drafting Committee should consider the question of the determination of the place of incorporation of the obligor in the case of federal States. It should furthermore consider the possibility of adding a reference to the official head quarters of a company.

ARTICLE 6

29. The present text of Art. 6 was accepted, one delegation however expressing its reservations.

ARTICLE 7

30. It was decided to delete Art. 7(2).

31. It was decided that final approval of Art. 7(3) should be deferred until the Drafting Committee had better defined what was to be understood by the references to the applicable law.

ARTICLE 8

32. It was suggested that the word “and” should be added at the end of each *litera* to indicate that the conditions were cumulative.

33. It was decided that the Drafting Committee should better define the meaning of the word “power” in lit. (b). Furthermore it was decided that the decision of whether or not the text presently in square brackets in lit. (d) should be retained, should be deferred until the Drafting Committee had proposed a new definition of “security agreement”. The Drafting Committee should also consider how to ensure that outright transfers of property were covered by the definition of “security agreement”.

ARTICLE 9

34. The observer from the Hague Conference on Private International Law raised the question of the relationship between Art. 9(1) and Arts. 42 and 43.

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