

DRAFT REPORT

PLENARY SESSION

4 February 1999

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AGENDA ITEM 4: ORGANISATION OF WORK

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

35. It was announced that the Drafting Committee had held its first meeting and that the delegate of Germany had been elected Chairman and the delegate of Canada had been elected Vice Chairman.

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)
CONSIDERATION OF THE TEXT OF THE PRELIMINARY DRAFT CONVENTION (cont.d):

ARTICLE 9

36. It was decided that the Drafting Committee should review the question of self-help remedies and consider the advisability of introducing the concepts of “good faith” and “public order” into Art. 9. In reconsidering Art. 9, the Drafting Committee should take the provisions of Art. 15 into account. More specifically, the Drafting Committee should consider whether Art. 9(6) lit. (d) could be considered to cover the content of lit. (c).

37. In relation to Art. 9(2), the Drafting Committee should consider whether the concept of “good faith” should be inserted instead of that of “a commercially reasonable manner”. In relation to Art. 9(3) the possibility that the Registrar be provided with a duty to inform all holders of international interests when a new national interest was created should be considered.

ARTICLE 10

38. In order to settle the question of the mandatory or non-mandatory character of Art. 10(1), it was agreed that the Drafting Committee should consider splitting the provision into two parts. The part dealing with court orders would be of mandatory character.

ARTICLE 11

39. It was agreed that the Drafting Committee should reconsider the present wording of the provision, so as to ensure that it dealt with the concerns expressed by some delegations regarding firstly, whether the terms and conditions for the termination of the leasing agreement or the title reservation agreement were left to the terms of the agreement or to the applicable law, and secondly, whether there must be default before a court order could be sought.

ARTICLE 12

40. It was decided that the present wording of Art. 12 should be retained for the time being. The Plenary Session would take a final decision on this article once the Drafting Committee had specified what would constitute a substantial default and had considered alternative formulations of paragraph (1).

ARTICLE 13

41. There was general agreement on the content of Art. 13. It was however pointed out that there was a need to reformulate the reference to “procedural law”, so as to take into consideration the fact that in some legal systems the rules of procedure did not constitute a separate body of law.

ARTICLE 14

42. There was general agreement on the content of Art. 14. It was suggested that the Drafting Committee should consider inserting a reference to Art. 6.

ARTICLE 15

43. It was decided that the Drafting Committee should consider the relationship between Art. 15 and Art. 9 on the one hand, and between Art. 15 and Art. Z on the other.

44. It was also decided that the Drafting Committee should consider the relationship between lits. (a) and (e), as some delegations felt that lit. (e) might be covered by the wording in lit. (a). It was also suggested that the sale of an object as an interim measure as specified in lit. (c) should be associated with a guarantee.

45. Lastly, it was agreed that the reference to “applicable law” should be considered in the light of the discussions in the Drafting Committee on this matter.

THE INTERNATIONAL REGISTRATION SYSTEM

GENERAL DISCUSSION

46. Mr L. Weber (ICAO) introduced a document prepared by the ICAO Secretariat on the “Establishment of an International Registry for the Registration of International Interests in Aircraft Objects” (Unidroit CGE/Int.Int./WP/3 and ICAO Ref. LSC/ME-WP/9), which considered in particular the issues requiring consideration and the costs involved in the setting up of an international registry. In this document the ICAO Secretariat also proposed that the Joint Session establish a working group of governmental experts to deal specifically with institutional, legal, operational and other relevant issues of the establishment and operation of the International Registry (Registry Working Group).

47. The proposal to establish a Registration Working Group was accepted by the Joint Session in Plenary.

48. Mr J. Wool (AWG) introduced a paper containing a “Summary and Issues Note relating to the International Registry System contemplated by the Preliminary Draft Unidroit Convention on International Interests in Mobile Equipment as applied to aircraft equipment by virtue of the Preliminary Draft Protocol on matters specific to Aircraft Equipment” (Unidroit CGE/Int.Int./WP/4 and ICAO Ref. LSC/ME-WP/13).

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