



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)

UNIDROIT CGE/Int.Int./3-WP/27
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(Rome, 20 – 31 March 2000)

SPECIAL WORKING GROUP ON ARTICLE 3 OF THE PRELIMINARY DRAFT CONVENTION

SECOND REPORT

1. The report of this special Working Group was given to Plenary on Wednesday the 22nd in the afternoon session. The special Working Group was convened again on Friday the 24th at 9.30h to try to find a compromise drafting for Articles 27 and V. It was composed this time of the representatives of the following delegations: Canada, Finland, France, Germany, Greece, Italy, Japan, Mexico, Sweden, United Kingdom and the United States of America. The co-ordinator of the Aviation Working Group also attended the meeting.

2. The German Delegation submitted to the special Working Group a Proposal concerning the issues dealt in Articles 27 and V. The Proposal is reproduced in Appendix I to this report.

3. On the basis of this Proposal the special Working Group discussed the related issues and has agreed to the following Principles:

(1) A transaction is “purely internal” if the creditor and debtor are located in the same Contracting State and the object is registered or situated in that Contracting State, in each case at the time of the agreement.

(2) With respect to a purely internal transaction, at the time of acceding to the Protocol, a State may declare (a “State declaration”) that the Convention will not apply to a purely internal transaction, unless the parties decide otherwise and the purely internal transaction is subject to the mandatory rules of that State. If the parties do not decide for the Convention when a priority issue arises involving a competing international interest, the purely internal transactions should be subject to the priority rules of the Convention.

(3) With respect to a purely internal transaction subject to a State declaration, the parties would have the right to give notice in the international registry of the national interest. With the addition, that the general first-to-file rule of the Convention applies.

4. It was further agreed that the Drafting Committee should find the best way of drafting these Principles.

5. The special Working Group decided that Article 3 as it was proposed at the last meeting should be retained (cf. Report of the special Working Group, UNIDROIT CGE/Int.Int./3-WP/20; ICAO Ref. LSC/ME/3-WP/20). This text is reproduced in Appendix II of this report.

6. The special Working Group kindly asks the Plenary to forward these Principles to the Drafting Committee.

APPENDIX I

PROPOSAL OF THE GERMAN DELEGATION

Article 3

1. This Convention shall apply when, at the time of the conclusion of the agreement creating or providing for the international interest, the debtor is situated in a Contracting State.
2. The fact that the creditor is situated in a non-Contracting State does not affect the applicability of this Convention.

Article V

A Contracting State may declare at the time of signature, ratification, acceptance, approval of, or accession to the Protocol, that in purely internal transactions this Convention only applies, if the parties so decide. A transaction is to be considered purely internal, if the creditor, the interested parties and the object are registered or situated in the same Contracting State as specified in the Protocol at the time of the conclusion of the agreement.

Article 27

- 1a. If an interest arising under a purely internal transaction is registered in a national registry, this interest shall have priority over an international interest registered in the International Registry subsequently to the national registration, provided that notice of such interest appears on the International Registry.

**ARTICLE 3 AS PROPOSED BY THE
SPECIAL WORKING GROUP ON ARTICLE 3
OF THE PRELIMINARY DRAFT CONVENTION**

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