



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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SUMMARY COMMENTS

on the international registration system and its effects

(submitted by the Government of Portugal)

1. The preliminary draft Convention (and in particular Chapters IV to VIII thereof) deals with the registration of international interests, the Registry, supervision thereof and the effects of registration.

We note that several of the provisions contained in the texts of the First and Second Joint Sessions have been moved to the preliminary draft Protocol, a solution which we find quite appropriate.

2. The idea of the international registration system has been illustrated in detail by Professor Ronald C.C. Cuming in his article published in the *Uniform Law Review*, 1999-2, 275.

3. The main point on which we have some reservations concerns the reconciling of the proposal for a highly simplified and speedy registration system with the legal certainty indispensable for the determination of priorities in a way that is not open to question.

4. The requirements for registration (the model for which is included in the text) being relatively simple, it would appear that they could and should be added to by requiring the identification of the contract (or the legal act) which is intended to be registered and, perhaps also, the filing of a copy of such contract (or legal act). Indeed, the filing of a copy of such contract (or legal act) may even be considered indispensable.

In that case, the question arises as to how one could guarantee that it is the contract in question and not some other contract.

In addition, it would also seem indispensable to require proof of the capacity and authority of the person signing the registration application.

5. It would appear necessary to lay down the elements (however summary) to be included in a registration application, which would determine whether an act may or may not be accepted by the international registration system (or whether it may be attributed priority). At the moment this question would appear to be dealt with inadequately.

6. It would further seem necessary to confirm whether the parties are lawfully entitled to sign the act for it to be capable of registration in the international registration system. It is also clear that the registration should lose its priority where there is an irremediable defect in the act.

7. The Registry could not only attribute priority ranking but also a presumption regarding registered rights.

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These suggestions could, in our opinion, give the Registry greater credibility and make it more effective, in such a way as to make it correspond to its role as a guarantor of the priority of registered rights.