

International Interests
Study Group
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U n i d r o i t

INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW

STUDY GROUP FOR THE PREPARATION OF
UNIFORM RULES ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT

(Third session: Rome, 15 - 21 January 1997)

PROPOSALS BY THE DRAFTING GROUP

Rome, 20 January 1997
(morning)

PROPOSALS BY THE DRAFTING GROUP

On 17 January 1997 the Drafting Group met at the seat of Unidroit to consider those drafting amendments necessary in the light of the Study Group's reading at its third session of the *revised draft articles of a future Unidroit Convention on international interests in mobile equipment* (Study LXXII - Doc. 30). The Drafting Group's proposals for the articles which it was able to consider in the time available are as follows:

REVISED DRAFT ARTICLES OF A FUTURE UNIDROIT CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ^(*) ⁽¹⁾

CHAPTER I

SPHERE OF APPLICATION AND GENERAL PROVISIONS

Article 1

1. – This Convention provides for the creation and effects of an international interest in mobile equipment.

2. – For the purposes of this Convention an international interest in mobile equipment is a right in or over an object of a kind listed in Article 2:

- (a) granted by the chargor under a security agreement; or
- (b) vested in a person who is the seller under a title reservation agreement; or
- (c) vested in a person who is the lessor under a leasing agreement.

Article 2

1. – This Convention applies in relation to an object of any of the following kinds where it is defined in this Convention or in any protocol thereto:

- (a) airframes;
- (b) aircraft engines;
- (c) helicopters;
- (d) [registered ships];

^(*) The use of an asterisk (*) against a particular provision indicates that the provision in question is envisaged as part of the Final Clauses of the future Convention.

⁽¹⁾ It was noted that it will be necessary in due course to prepare a draft preamble to the future Convention.

- (e) oil rigs;
- (f) containers;
- (g) railway rolling stock;
- (h) satellites [;
- (i) objects of any other category of which each member is uniquely identifiable and habitually moves from one State to another in the ordinary course of use].

2. – As regards an object defined in a protocol, this Convention applies only between States Parties to that protocol.

* 3. – [Add provision for procedure for making of protocols].⁽²⁾

Article 3

[Add provision on connection to a Contracting State]

Article 4

Terms used in this Convention and defined in the Appendix have the meanings there stated.

Article 5

In their relations with each other, the parties may by agreement in writing derogate from or vary the effect of any of the provisions of this Convention except as stated in Articles [...]

Article 6

1. – In the interpretation of this Convention, regard is to be had to its international character and to the need to promote uniformity and predictability in its application and the observance of good faith in international trade.

2. – [[The official comments to this Convention shall be considered by courts as authoritative when interpreting and applying the terms of this Convention.

3. –]] Questions concerning matters governed by this Convention which are not expressly settled in it are to be settled in conformity with the general principles on which it is based [or, in the absence of such principles, in conformity with the law applicable by virtue of the rules of private international law].

CHAPTER II

⁽²⁾ It may be necessary to distinguish between protocols containing no more than a definition and those containing substantive provisions.

CONSTITUTION OF AN INTERNATIONAL INTEREST

Article 7

An international interest takes effect under this Convention where the agreement creating or providing for the interest:

- (a) is in writing;
- (b) relates to an object in respect of which the chargor, seller or lessor has power to enter into that agreement;
- (c) identifies the object;
- (d) in the case of a security agreement, identifies the secured obligations expressly or by reference to another document.