



**UNIDROIT COMMITTEE OF GOVERNMENTAL EXPERTS
FOR THE PREPARATION OF A DRAFT PROTOCOL TO
THE CONVENTION ON INTERNATIONAL INTERESTS IN
MOBILE EQUIPMENT ON MATTERS SPECIFIC TO
SPACE ASSETS
Second session
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COMMENTS BY GOVERNMENTS AND INTERNATIONAL ORGANISATIONS

(Comments by the Government of Senegal)

Re preamble

Re third clause

One could say "that all States will derive ..."

Re body of the text

Re Article I(2)(a)

There could be a pleonasm in the cumulative use of the terms "rights to performance" and "rights to payment", since payment is one way of performing a contract.

In this same sub-paragraph, the phrase "with respect to a space asset" could be replaced by the words "in relation to a space asset".

Re Article I(2)(f) (relevant only to the French-language version)

The words "de caractère" could be deleted.

Re Article III

It would seem necessary to rearrange the provisions of this Article so as to make it more understandable. It could be reformulated as follows:

"The provisions of Articles 3, 4, 16(1)(a), 19(4), 20(1), 25(2) and 30 apply:

- to the debtor and the creditor bound by an agreement creating or providing for an international interest as if they referred to a contract of sale;

- to the seller and the buyer in relation to an international interest or a prospective international interest as if they referred to a sale or a prospective sale."

Re Article V (and all similar provisions)

The term "[f]or the purposes of this Protocol" could be replaced by "[u]nder this Protocol" or "[a]ccording to this Protocol".

Re Article V(3)

What could be the meaning of the words "effective indefinitely" and between which parties is it so to remain?

Re Article VI

The words “enter into an agreement or a contract of sale” could be replaced by “enter into any contract”.

Re Article IX bis

The debtor’s rights need to be reconsidered under this provision in order to avoid a contractual imbalance.

Re Article XI

Formally, there is an Alternative A and an Alternative B to Article XI. However, both Alternatives start with paragraph 2. Where is paragraph 1 for each of these Alternatives to be found?

Re Article XI(7) Alternative A in fine

To replace the word “such” by “its” would place an insolvent debtor under greater constraint.

Re Article XI(5) Alternative B

The definite Articles before the words “possession”, “control” and “operation” are missing.

Re Article XII(2)

This paragraph could be reformulated with a view to making it clearer. Thus reformulated, it would read as follows:

“The courts of a Contracting State shall, in accordance with the law of that Contracting State, co-operate to the maximum extent possible with foreign courts and foreign insolvency administrators in carrying out the provisions of Article XI when:

- (i) the space asset is situated on its territory;
- (ii) the space asset may be controlled from its territory;
- (iii) the debtor is located on its territory;
- (iv) there is otherwise a close connection between its territory and the space asset.”