



INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW
INSTITUT INTERNATIONAL POUR L'UNIFICATION DU DROIT PRIVE

**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
Third session
Rome, 7/11 December 2009**

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**PRELIMINARY DRAFT PROTOCOL
TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT
ON MATTERS SPECIFIC TO SPACE ASSETS**

(as revised by the Committee of governmental experts at its first session
(Rome, 15/19 December 2003))

and

**ALTERNATIVE TEXT OF THE PRELIMINARY DRAFT PROTOCOL,
IMPLEMENTING POLICY ISSUES
REFERRED TO AND EXAMINED BY THE STEERING COMMITTEE**

(prepared, at the request of the Steering Committee,
for presentation to the Committee of governmental experts,
by Professor Sir Roy Goode (United Kingdom) and Mr Michel Deschamps (Canada):

COMMENTS

on the alternative text

submitted by the Government of the People's Republic of China

(a) Conflicts of international interest

If international interests are allowed to be established on the space asset as a whole as well as its parts, or on different space assets which are functionally linked, creditors' rights may conflict. Because of the diversity and complexity of scenarios in reality, it is not wise or even possible to envisage and spell out all of them in the Protocol. In our opinion, the parties, taking account of the principle established by the Protocol that "the preceding registered international interests prevails", might make their pre-arrangements through contracts to address such conflicts.

(b) Debtor's rights

According to Article I, "debtor's rights" means all rights to payment or other performance due to a debtor by any person with respect to a space asset. There are two questions to be addressed. First, does the term "rights" only refer to civil contractual rights or does it include any rights arising from administration such as government, regulatory organ or other organisation? Secondly, accordingly, what does "other performance" here refer to?

(c) Public service exemption

Public service directly concerns State security as well as people's health and welfare. It is up to each State to weigh the continuation of public service against the creditor's rights and find its solution to the issue of public service exemption. We can accept a listing approach enabling each State to make its own choice by declaration and accordingly to bear due influence of the choice on its space asset finance. However, we are concerned that the list is too long to be workable, and further work needs to be done to refine it.