

UNIDROIT 1995  
Study LXXII - Doc. 19 Add. 2  
(Original: English)

Unidroit

INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW

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

SUB-COMMITTEE FOR THE PREPARATION OF A FIRST DRAFT

*REVISED PROPOSALS FOR A FIRST SET OF DRAFT ARTICLES OF A  
FUTURE UNIDROIT CONVENTION ON INTERNATIONAL INTERESTS  
IN MOBILE EQUIPMENT*

(drawn up by the drafting group on the basis of the provisional conclusions  
reached by the sub-committee at its second session):

*COMMENTS*

(by members of the Study Group and the Sub-committee and the international Organisations  
and professional associations represented by observers thereon)

Rome, September 1995



## INTRODUCTION

Subsequent to the comments to the drafting group's revised proposals for a first set of draft articles of a future Unidroit Convention on International Interests in Mobile Equipment grouped together in Study LXXII - Doc. 19 and Study LXXII - Doc. 19 Add., the Unidroit Secretariat received additional comments from the Italian Banking Association, a representative of which sits as an observer on the Unidroit Study Group as the representative of the Banking Federation of the European Union. This paper reproduces these comments, set out hereunder.



### ITALIAN BANKING ASSOCIATION

With reference to the revised proposals for the Unidroit Convention, we should like to submit the following observations:

(a) The creation of an "international interest" meeting the essential requisites of Article 3 would appear to entail, in the absence of registration in the international register, that the interest is effective only *inter partes*. Accordingly, the line adopted by the drafters consists in the application of the Convention also to "international interests" that are not registered; it is conceptually compatible with Italian law, which distinguishes between the internal effectiveness of a guarantee agreement and its effectiveness with respect to third parties.

(b) The provisions concerning priorities, set forth in Article 12, do not exactly correspond to the idea expressed in the minutes of the meeting of the Sub-committee held in Rome from 29 November to 1 December 1994 (p. 8 of the minutes). On that occasion it was provisionally decided that "once an international interests had been filed on the international register, it should as a rule take priority over .... all domestic ..... interests in the same equipment, whether filed on a national register or not and regardless of whether the national filing was first in time or not".

As for the principle of priority for registered international interests, we should like to emphasise the desirability of introducing - perhaps as part of the article on the conditions and modalities of registration - a clause laying down the criteria of linkage with the national data systems flowing into the international registry. This data link procedure would enable interested parties to obtain certain and exhaustive information on the type and effects of the claims against any given mobile equipment.