

UNIDROIT 1995
Study LXXII - Doc. 19 Add. 3
(Original: French)

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:
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, October 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, Study LXXII - Doc. 19 Add. and Study LXXII - Doc. 19 Add. 2, the Unidroit Secretariat received additional comments from Professor Renato Clarizia in his capacity as observer representing the European Federation of Equipment Leasing Company Associations (Leaseurope) on the Sub-committee of the Unidroit Study Group for the preparation of uniform rules on international interests in mobile equipment. This paper reproduces these comments, set out hereunder.



PROFESSOR RENATO CLARIZIA (LEASEUROPE)

On behalf of Leaseurope we should like to congratulate the drafting group for the skill and seriousness with which it has worked. However, also in view of the comments submitted by other members of the Study Group (and in particular Professor Cuming), we would point out the need to refrain from treating financial leases as either security agreements or title reservation agreements.

In all countries the *cause* of financial leasing agreements is financing. The function of security served by the financial lessor's ownership of the equipment is only incidental and never fundamental, as it may be in the case of reservation of title under sale agreements. The Unidroit Convention on International Financial Leasing provides an adequate regulation of the public notice aspects of international financial leasing.

In conclusion, should it be thought that the inclusion of financial leases in the future Convention might be in the interest of both leasing companies and third parties, then at least a special section of the International Register should be devoted to financial leases in order to show clearly the difference between a financial lease and a genuine security interest.