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Unidroit

INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW

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

*REVISED DRAFT ARTICLES OF A FUTURE UNIDROIT CONVENTION
ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT*

(proposed by the Drafting Group in the light of the Study Group's reading at its second session
of the first set of draft articles established by the Sub-committee in conjunction with the
recommendations of the Aviation Working Group)

with

INTRODUCTORY REMARKS

(prepared by the Unidroit Secretariat)

Rome, December 1996

1. The first part of the document is a letter from the President of the United States to the Congress, dated January 1, 1861. It is a very important document, as it sets out the President's policy for the new year.

2.

3. The second part of the document is a report from the Secretary of the Treasury, dated January 1, 1861. It contains a detailed account of the financial state of the country at the beginning of the year.

4. The third part of the document is a report from the Secretary of the Interior, dated January 1, 1861. It contains a detailed account of the state of the interior of the country at the beginning of the year.

5. The fourth part of the document is a report from the Secretary of the Navy, dated January 1, 1861. It contains a detailed account of the state of the Navy at the beginning of the year.

6. The fifth part of the document is a report from the Secretary of the War, dated January 1, 1861. It contains a detailed account of the state of the War at the beginning of the year.

7.

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CORRIGENDUM

RE: INTRODUCTORY REMARKS

Sub § 24: Add a second sentence to read as follows:

“It will be noted that this provision is placed inside square brackets. This is designed to reflect the provisional nature of the Study Group’s agreement on the inclusion of this concept in the future Convention.”

INTRODUCTORY REMARKS (prepared by the Unidroit Secretariat)

I. INTRODUCTION

1. - The Drafting Group of the Unidroit Study Group for the preparation of uniform rules on international interests in mobile equipment held its second session at St John's College, Oxford on 23 and 24 October 1996. The session was opened at noon on the 23rd by Mr R.M. Goode, Professor of English Law in the University of Oxford and member of the Unidroit Governing Council, who chaired the session in his capacity of Chairman of the Study Group.

2. - The session was also attended by the following other members of the Study Group:

Mr K.F. Kreuzer	Professor of Law at the University of Würzburg
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Mr H. Synvet	Professor of Law in the University of Paris II (Panthéon-Assas)
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3. - The main business of the Drafting Group at the session was its completion of the process of revision of the first set of draft articles established by the Sub-committee ⁽¹⁾ which it had already initiated at its first session, held on 13 and 15 April 1996. ⁽²⁾ This revision was designed to take account of the provisional conclusions reached by the Study Group at its second session, held in Rome from 12 to 16 April 1996, in the course of its first reading of the first set of draft articles in conjunction with the recommendations of the Aviation Working Group, ⁽³⁾ in particular the draft aviation text. ⁽⁴⁾ The basic working document of the session was a revised version of the first set of draft articles prepared by the Chairman of the Drafting Group. Shortage of time not permitting the Drafting Group to complete its work in Oxford, this work was completed subsequently by correspondence.

4. - An important policy consideration ever in the Drafting Group's mind was to ensure that the concepts embodied in the revised draft articles would prove workable in both language versions, language in the area under consideration being recognised as a vehicle of especial importance for the determination of the extent to which particular concepts were capable of expression in the terminology of a particular family of legal systems.

5. - The text of the revised draft articles as proposed by the Drafting Group hereunder includes not only amendments to the first set of draft articles, both in the form in which they were established by the Sub-committee and as revised at the Drafting Group's first session, but also major extensions thereto. These changes are summarised hereunder under three sections: rearrangements; major new provisions; other changes. This summary also includes, where

⁽¹⁾ Cf. Study LXXII - Doc. 24.

⁽²⁾ Cf. Study LXXII - Doc. 27, Appendix IV.

⁽³⁾ Cf. Study LXXII - Doc. 23.

⁽⁴⁾ Cf. *idem*, Annex 1.

appropriate, mention of provisions which the Drafting Group did not see fit to include in the revised draft articles and also explanatory remarks made in relation to particular provisions.

II. REARRANGEMENTS

A. *Provisions dealing with the international register and registration*

6. – The Drafting Group decided to rearrange the provisions contained in Chapters II and V of the first set of draft articles dealing with the international register and registration of international interests respectively, in line with a proposal from Professor R.C.C. Cuming, Chairman of the Working Group to consider the legal and technical issues raised by the establishment of an international register (hereinafter referred to as *the Working Group*) and himself also a member of the Drafting Group, in such a way that these Chapters come directly one after the other. These Chapters have therefore been renumbered Chapters V and VI.

B. *Default remedies*

7. – Articles 8(1) and 12 of the text agreed in April 1996 were relocated in a new Article 13, the remaining limb of the former Article 8, that is Article 8(2), being also relocated in a new Article 14.

C. *Definitions*

8. – The draft definitions set out in Appendices I to III have been reordered, first, in the sense that a decision has been taken to list the definitions in alphabetical order in both language versions ⁽⁵⁾ and, secondly, those definitions exclusive to aircraft property have been relocated to Part II (Definitions exclusive to aircraft property) and those exclusive to other types of property to Part II (Other definitions). In this connection it should be noted that Mr H. Rosen, expert consultant to the Study Group on international rail finance matters, has furnished the Secretariat with a draft definition of “railway rolling stock” which is reproduced in Appendix III to this paper. The comments on the first set of draft articles’ application to mobile equipment placed in space submitted by Mr Peter D. Nesgos and Ms Shiva Falsafi after the second session of the Study Group also contain valuable proposals regarding the definition of “satellite” and these comments are accordingly reproduced in Appendix II to this paper. ⁽⁶⁾ It will in due course be necessary to consider the advisability of centralising the location of the various definitions contained in the revised draft articles: at present only some are located in the Appendix, others being included in the text of the revised draft articles.

⁽⁵⁾ However, it should be noted that one potentially awkward result of this decision will be that references to the definitions will differ according to whether one is referring to the English text or the French text.

⁽⁶⁾ Cf. *infra*, Appendix II, *sub* Article 2(1)(g).

III. MAJOR NEW PROVISIONS

A. *Provisions dealing with the international register and registration*

9. - It will be noted that the revised draft articles include in Chapters V and VI (dealing with the international register and registration of international interests and prospective international interests respectively) provisions which considerably amend and develop the provisions contained in Chapters II and V of the first set of draft articles. These provisions are derived from a draft submitted by Professor R.C.C. Cuming, on the basis of the discussions that took place at the first session of the Working Group, which was held in Rome from 16 to 18 April 1996. While the Drafting Group decided to include these provisions in the revised draft articles for presentational purposes, in particular for the sake of completeness, they now await review by the Chairman of the Working Group and the Working Group itself at its next session, scheduled for May 1997. They will not therefore be the subject of discussion at the third session of the Study Group.

B. *Default remedies*

(i) *Definition of the term "default" for the purposes of Articles 8-10*

10. - The Drafting Group has proposed a new Article 11(1), indicating that the term "default" as employed in the context of Articles 8 to 10 means a "substantial or persistent default", ⁽⁷⁾ while making it clear in Article 11(2) that the parties are free to provide otherwise in their agreement.

(ii) *New provision on expeditious provisional or interim judicial relief*

11. - The Drafting Group has proposed a new Article 15, designed to implement the Study Group's decision to introduce a provision permitting the obligee to obtain expeditious provisional or interim judicial relief. ⁽⁸⁾ It was noted that this new provision was not to be considered as being on an equal footing with the other essentially private law provisions of the future Convention, encroaching as it did on the domain of procedural law and raising public policy considerations. It would accordingly probably be necessary for it to be relocated in due course to another chapter of the future Convention.

C. *Assignments and charges of international interests*

(i) *Drafting of a new Chapter on assignments of international interests*

12. - The Drafting Group agreed on a new Chapter VIII dealing with assignments of international interests, whether absolute or by way of security, in line with the proposal made

⁽⁷⁾ Cf. Study LXXII - Doc. 27, § 56

⁽⁸⁾ Cf. Study LXXII - Doc. 27, §§ 96 - 99.

by the Drafting Group of the Sub-committee at its third session, held in Oxford in December 1995. ⁽⁹⁾

(ii) Charges of international interests

13. - The Drafting Group took the view that it would not be advisable to attempt in the proposed Convention to deal with charges of international interests. It will be recalled that at its second session the Study Group had considered a proposal to deal with both assignments and charges of international interests in a new chapter. ⁽¹⁰⁾ It was noted, however, that the concept of a charge encumbering an interest in property, as opposed to a pledge or a transfer of ownership by way of security, was unknown to Civil law systems. The new Chapter VIII as a result deals only with assignments of international interests.

D. Registrable national interests

14. - The Drafting Group has proposed a new Chapter IX dealing with registrable national interests. It will be noted that these last mentioned provisions, as well as references elsewhere in the revised draft articles to registrable national interests, are placed inside square brackets. This is designed to reflect the provisional nature of the Study Group's agreement on the inclusion of this concept, advocated by the Aviation Working Group, in the future Convention. ⁽¹¹⁾

IV. OTHER CHANGES

A. Lessor's interest under a leasing agreement

15. - With a view to seeking to respond to the concerns voiced by the European Federation of Equipment Leasing Company Associations (Leaseurope), ⁽¹²⁾ Article 1(2)(c) was amended so as to indicate that the lessor's interest which was relevant for the purposes of the proposed Convention was that interest which he held as lessor under a leasing agreement.

B. Extension of the sphere of application provisions to outright transfers

16. - It was agreed that it would not be appropriate, for the time being at least, to include any reference in the sphere of application provisions to outright transfers under a contract of sale, as recommended by the Aviation Working Group, ⁽¹³⁾ since such an extension raised special considerations not applicable to the other forms of transfer covered in the sphere of application provisions, i.e. a security interest, the interest retained by the seller under a title reservation agreement and that held by a person as a lessor under a leasing agreement. It was

⁽⁹⁾ Cf. Study LXXII - Doc. 22, § 14.

⁽¹⁰⁾ Cf. Study LXXII - Doc. 27, § 100.

⁽¹¹⁾ Cf. Study LXXII - Doc. 27, §§ 79 - 83

⁽¹²⁾ Cf. *infra*, Appendix I.

⁽¹³⁾ Cf. Study LXXII - Doc. 23, p. 22; *idem*, Annex 1, *sub* Article 1(3)(e).

moreover recalled that there had been a general feeling at the second session of the Study Group that a general extension of the sphere of application of the future Convention along these lines could only be justified at such time as other relevant interest groups had manifested support for such a general extension. ⁽¹⁴⁾ Pending such time it was decided that the best solution was to reinstate the solution agreed at the Drafting Group's previous session, ⁽¹⁵⁾ namely to allow for such a provision in Chapter X (Special provisions for aircraft property). ^{(16) (17)}

C. *Choice of the applicable law by the parties*

17. - At its second session the Study Group had agreed to the Aviation Working Group's proposal for the inclusion in the proposed Convention of a rule allowing the parties to choose the law to govern their contractual rights and duties. ⁽¹⁸⁾ In seeking to implement this decision, by adding a second paragraph to Article 5, the Drafting Group however encountered a number of problems, which will need to be addressed by the Study Group. These essentially consisted in, first, the need to consider whether such a clause should only deal with the parties' right to choose the law to govern their contractual rights and duties or whether it should also include a reference to the parties' right to choose general principles of law, as opposed to a particular national legal system, to govern their relations, secondly, the need to consider what should happen where the parties failed to choose the law or general principles to govern their relations and in this context to bear in mind the provisions of Article 4(1) of the Rome Convention on the Law Applicable to Contractual Obligations, ⁽¹⁹⁾ thirdly, the need fully to consider the relationship between such a provision and that part of Article 5 which was intended to indicate which provisions of the future Convention were to be mandatory ⁽²⁰⁾ and, fourthly, the need to consider those rules of private international law which would tend to restrict the freedom of the parties to choose the law to govern their relations, for instance in cases where their choice was motivated by a desire to circumvent the application of mandatory rules of law. In connection with the idea that such a clause should also refer to the parties' right to choose general principles to govern their relations, it was pointed out that such a formulation would enable arbitrators to select the rules appropriate to the case where the parties had not themselves chosen the law to govern their contractual relations.

⁽¹⁴⁾ Cf. Study LXXII - Doc. 27, § 16.

⁽¹⁵⁾ Cf. Study LXXII - Doc. 27, Appendix IV.

⁽¹⁶⁾ Cf. *idem*, Appendix IV, p. vi, *sub* Chapter VIII.

⁽¹⁷⁾ It was pointed out that, in the event that it should in due course be found desirable to include outright transfers in the sphere of application provisions, it would be necessary to deal with the problem of double registration that might otherwise arise under Article 17(1) in respect of assets, title to which had been registered as an international interest created by virtue of an outright transfer, supplied under a contract to sell on reservation of title or on lease so as to make it clear that it would not in such a case be necessary to register separately under Article 1(2)(b) and (c).

⁽¹⁸⁾ Cf. Study LXXII - Doc. 27, § 48 *in fine*; cf. also *infra*, Appendix IV, § 2.

⁽¹⁹⁾ The relevant part of Article 4(1) provides:

"To the extent that the law applicable to the contract has not been chosen in accordance with Article 3, the contract shall be governed by the law of the country with which it is most closely connected".

⁽²⁰⁾ As an example of the kind of provision in Chapter III that might be considered to merit mandatory application, the Drafting Group mentioned the requirement for the chargee to exercise the remedies given under Article 8(1)(a), (b) or (c) in a *commercially reasonable manner* (cf. Article 8(2)).

D. Default remedies

18. - Articles 9 and 10 of the text agreed in April 1996 were further revised in the light of the deliberations of the Study Group at its second session, resulting, in particular, in a new Article 8(3), the relocation of Article 10(6) to a new Article 8(5) and an amended Article 9(1) (involving the disappearance of the former Article 10(3)). It was felt that there was no need for the future Convention to contain a positive rule in Article 8(6) safeguarding the interests of a surety under a guarantee given in respect of the secured obligation as an "interested person", when a surety would not have a legitimate interest requiring protection under the relevant provisions, and that it would be sufficient in this connection for the Convention to make a reference to the rights and defences of such a surety under the applicable law, as has therefore been done in the new Article 9(5). By way of clarification of the terms "having rights in the object" and "notified" as employed in Article 8(6)(c), it was pointed out that the question of whether a person had rights in the object under this provision was a matter to be determined by the applicable law and that in determining whether these rights had been notified to the chargee for the purposes of this provision regard would likewise have to be made to the notification procedures of the applicable national law.

19. - The rule set out in Article 12(4) was reinstated in square brackets to allow for the decision taken by the Study Group at its second session. ⁽²¹⁾

E. Priority rules

(i) *Registrable national interests* ⁽²²⁾

(ii) *Priority of registered international interests over other interests*

20. - It should be noted that the use of square brackets around the language contained in the second sentence of Article 25(4) was intended to signal to the Study Group the Drafting Group's uncertainty as to the need for the language in square brackets in addition to that already contained in the first sentence of that paragraph. ⁽²³⁾

(iii) *Subordination agreements*

21. - Article 25(5) deals with subordination agreements and introduces the concept of the filing of subordination notices advocated by the Aviation Working Group. ⁽²⁴⁾

⁽²¹⁾ Cf. Study LXXII - Doc. 27, § 67.

⁽²²⁾ Cf. *supra*, § 14.

⁽²³⁾ However, cf. Article 19(3) of the first set of draft articles.

⁽²⁴⁾ Cf. Study LXXII - Doc. 23, Annex 1, *sub* Article 22(1)(c)(i) and (d)(ii).

(iv) *Extension of priority to insurance proceeds*

22. – Article 25(6) extends the priority enjoyed by an international interest in a particular piece of equipment to the insurance proceeds payable in respect of the loss or destruction of that equipment, again in line with a recommendation of the Aviation Working Group. ⁽²⁵⁾

(v) *Definition of the term “bankruptcy”*

23. – The Study Group at its second session ⁽²⁶⁾ had agreed as to the desirability of trying to find a less oblique definition of bankruptcy than that contained in Article 26(3). The Drafting Group resolved for this purpose to consider at a future time the definition of bankruptcy employed in the draft Convention of the European Union on Insolvency Proceedings.

(vi) *Preferred national lien creditors*

24. – Article 26(4) introduces the concept, favoured by the Aviation Working Group, of States being able at the time of ratification, acceptance, approval or accession to declare those non-consensual interest which under their national law would take priority over international interests and to amend their declaration subsequently. ⁽²⁷⁾ It will be noted that this provision is placed inside square brackets. This is designed to reflect the provisional nature of the Study Group's agreement on the inclusion of this concept in the future Convention.

(vii) *Prospective international interests*

25. – Article 27 reintroduces the concept of the “prospective international interest”, first introduced in the first set of draft articles and temporarily dropped from the articles as amended in April 1996. The Drafting Group's reintroduction of the concept of the filing of a “prospective international interest” was designed to reflect the Study Group's decision at its second session that the various ingredients necessary for the creation and perfection of a valid international interest should be capable of being satisfied in any order and that priority, once all the different ingredients had indeed been satisfied, should be determined by the date of filing, ⁽²⁸⁾ so that where an interest had been filed as a prospective international interest before going on to become a fully-fledged international interest the priority of such an interest would be determined by the date on which it was filed as a prospective international interest. It should be noted in this connection that, in line with the decision taken by the Study Group at its second session, ⁽²⁹⁾ the filing of a prospective international interest requires the written consent of the intending grantor of such an interest. ⁽³⁰⁾ It should also be noted that the significance of the future Convention's coverage of prospective international interests would be increased should it ultimately be decided to extend the scope of the future Convention to cover outright

⁽²⁵⁾ Cf. Study LXXII - Doc. 23, Annex 1, *sub* Article 22 (1).

⁽²⁶⁾ Cf. Study LXXII - Doc. 27, § 85.

⁽²⁷⁾ Cf. Study LXXII - Doc. 27, § 79.

⁽²⁸⁾ Cf. Study LXXII - Doc. 27, § 31

⁽²⁹⁾ Cf. *idem*.

⁽³⁰⁾ Cf. Article 19(1).

transfers, as in that case the concept of the prospective international interest would also encompass a prospective reservation of title.

F. Definitions

26. - The draft definitions set out in Appendices I to III have been added to. For instance, there are new definitions of "obligee" and "obligor", ⁽³¹⁾ "registrable national interest" and "subordination notice", a definition of "prospective international interest" has been reintroduced and the definition of "writing" has been amended.

V. SPECIAL PROVISIONS FOR AIRCRAFT PROPERTY

27. - As has been already indicated, the draft aviation text provided invaluable inspiration for the Drafting Group's efforts so that a good many of the Aviation Working Group's recommendations have thus already found their way into the revised draft articles applicable to the generality of mobile equipment encompassed thereby. It has however always been envisaged that certain additional provisions specific to aircraft property would be needed and Chapter X of the revised draft articles has been set aside for this purpose. A list of such provisions, revised to take account of the latest amendments incorporated in the revised draft articles, has therefore been drawn up. This list is set out in Appendix IV to this paper.

⁽³¹⁾ These terms were introduced into the text of the draft articles for the first time with a view to avoiding the need to refer each time to "chargee, seller or lessor" and "chargor, buyer or lessee" respectively.

REVISED DRAFT ARTICLES OF
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(proposed by the Drafting Group in the light of the Study Group's reading at its second session of the first set of draft articles established by the Sub-committee in conjunction with the recommendations of the Aviation Working Group) (*) (**) (***)

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 an interest in an object of a kind listed in Article 2:

- (a) granted by the chargor under a security agreement; or
- (b) retained by the seller under a title reservation agreement; or
- (c) held by a person as lessor under a leasing agreement.

Article 2

1. - This Convention applies in relation to an object of any of the following kinds:

- (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.

(**) The use of a double asterisk (**) against a particular provision indicates that the provision in question is envisaged as forming part of the Chapter dealing with the relationship of this Convention to other Conventions.

(***) Chapters marked with a triple asterisk (***) are derived from a draft prepared by the Chairman of the Working Group to consider the legal and technical issues raised by the establishment of an international register but await review by him and the Working Group.

- (e) oil rigs;
- (f) containers;
- (g) railway rolling stock;
- (h) satellites [;
- (i) others? ⁽¹⁾].

* 2. - [Add provision for amendment of list from time to time by designated body pursuant to Article X]

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.⁽²⁾

Article 5

The parties may, in their relations with each other, 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 in its application and the observance of good faith in international trade.

2. - 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.

⁽¹⁾ Views are to be invited on the desirability of including construction machinery, lorries, pleasure craft, agricultural equipment, omnibuses, non-registered ships and air-cushion vehicles. It was agreed that for these items to be capable of inclusion they would need to be of high value, individually identifiable and normally crossing borders in the ordinary course of use. It was recognised that the inclusion of such items could cause certain problems, particularly in view of the diversity of the types of equipment involved.

⁽²⁾ See below at p. 23 *et seq.*

CHAPTER II

CREATION OF AN INTERNATIONAL INTEREST AND CONDITIONS FOR THE APPLICATION OF CHAPTERS III TO VIII

Article 7

An international interest is created under this Convention, and Chapters III to VIII apply in relation to such an interest, where the agreement creating or providing for the interest:

- (a) is in writing;
- (b) relates to an object of which the chargor, seller or lessor has power to dispose;
- (c) identifies the object;
- (d) in the case of a security agreement, identifies the secured obligations.

CHAPTER III

DEFAULT REMEDIES

Article 8

1. - In the event of default in the performance of a secured obligation, the chargee may exercise any one or more of the following remedies:

- (a) take possession of any object charged to it;
- (b) sell or grant a lease of any such object;
- (c) collect or receive any income or profits arising from the management or use of any such object;
- (d) apply for a court order authorising or directing any of the above acts.

2. - Any remedy given by sub-paragraph (a), (b) or (c) of the preceding paragraph shall be exercised in a commercially reasonable manner. In determining what is reasonable the court shall have regard to any terms of the security agreement relating to the manner of exercise of such remedies.

3. - A chargee proposing to sell an object under paragraph 1 otherwise than pursuant to a court order shall give reasonable notice of the proposed sale to interested persons.

4. - Any sum collected or received by the chargee as a result of exercise of any of the remedies set out under paragraph 1 shall be applied towards discharge of the amount secured by the security interest.

5. - Where the sums collected or received by the chargee as a result of the exercise of the remedies given in paragraph 1 exceed the amount secured by the security interest, then unless otherwise ordered by the court the chargee shall pay the excess to the holder of the international interest registered immediately after its own or, if there is none, to the chargor.

6. - In this Article and in Article 9 "interested persons" means:

- (a) the chargor;
- (b) any person entitled to the benefit of any international interest which is registered after that of the chargee;
- (c) any other person having rights in the object which have been notified in writing to the chargee.

Article 9

1. - At any time after default in the performance of a secured obligation, all the interested persons may agree, or the court may on the application of the chargee order, that ownership of any object covered by the security interest shall vest in the chargee in satisfaction of all or any part of the secured obligation and free from any other interest over which the chargee's security interest has priority under the provisions of Article 25.

2. - The court shall grant an application under the preceding paragraph only if the amount of the secured obligation to be satisfied by such vesting is reasonably commensurate with the value of the object after taking account of any payment to be made by the chargee to any of the interested persons.

3. - At any time before sale of the charged object or the making of an order under paragraph 1, the chargor or any of the interested persons may redeem it by paying the amount secured by the security interest, subject to any lease granted by the chargee under paragraph 1 of Article 8.

4. - A sale by the chargee under paragraph 1 of Article 8 passes title to the purchaser free from any other interest over which the chargee's security interest has priority under the provisions of Article 25.

5. - Where a guarantee has been given in respect of the secured obligation, nothing in this Article affects any rights or defences of the surety under the law applicable to the guarantee.

Article 10

In the event of default by the buyer under a title reservation agreement or by the lessee under a leasing agreement, the seller or lessor, as the case may be, may take possession of any object to which the agreement relates.

Article 11

1. - In the absence of an agreement within paragraph 2, "default" for the purposes of Articles 8 to 10 means a substantial or persistent default.

2. - The parties may provide in their agreement for any other kind of default, or any event other than default, as giving rise to the rights and remedies specified in Articles 8 to 10.

Article 12

1. - Subject to paragraph 2, any remedy provided by this Chapter shall be exercised in conformity with the procedural law of the place where the remedy is to be exercised.

* 2. - Any remedy available to the obligee under Articles 8 to 10 which is not there expressed to require the intervention of the court may be exercised without reference to the court except to the extent that the Contracting State where the remedy is to be exercised has made a declaration under Article Y.

* 3. - A Contracting State may declare at the time of signature, ratification, acceptance, approval or accession that while the charged object is situated within its territory the chargee shall not in that territory sell or grant a lease of the object.

* [4. - A Contracting State may at any time make a declaration specifying the courts or tribunals (including arbitral tribunals) empowered to make an order under paragraph 1 of Article 9.]

Article 13

1. - The parties may agree in writing to exclude, wholly or in part, any right or remedy conferred on the obligee by this Chapter.

2. - Any additional remedies permitted by the applicable law, including any remedies agreed upon by the parties, may be exercised to the extent that they are not inconsistent with the provisions of this Chapter.

[Article 14

** This Chapter has effect subject to the provisions of the Unidroit Convention on International Financial Leasing where applicable.]

*Article 15 **

1. - A Contracting State shall ensure that facilities are available to an obligee to obtain speedy provisional or interim judicial relief relating to the object to which the relevant agreement relates.

2. - The forms of judicial relief available before trial shall include the following orders:

- (a) preservation of the object;
- (b) possession, custody or management of the object;
- (c) sale of the object;
- (d) immobilisation of the object.

3. - A Contracting State may declare at the time of signature, ratification, acceptance, approval or accession that it will not apply the provisions of this Article.

CHAPTER V

THE INTERNATIONAL REGISTER ***

Article 16

1. - An international registry shall be established for the purpose of registering international interests and information relating to international interests, in conformity with this Convention, and different registries may be established for different categories of object.

2. - The Governing Council of the International Institute for the Unification of Private Law, or such other organisation as it may from time to time determine:

- (a) shall designate such registry or registries;
- (b) may designate satellite registries, to which any registration notice or other document referred to in Chapter VI may be sent for onward transmission to the appropriate registry designated under sub-paragraph (a);

(c) shall prescribe, and may amend, Rules governing the organisation and operation of the international registry or registries and the registration of international interests and prospective international interests and of amendments, subordinations, assignments and discharges of registered international interests.

3. - A registry designated as an international registry is an international organisation that, in the exercise of its functions under this Convention, is not subject to the law or jurisdiction of the courts of the State in which it is situated except as provided by agreement between the registry and that State.

[4. - Liability of the international registry for errors and omissions under the law of the host State.]

CHAPTER VI

REGISTRATION OF INTERNATIONAL INTERESTS AND PROSPECTIVE INTERNATIONAL INTERESTS ***

Article 17

1. - An international interest may be registered in the international register where:

- (a) the agreement relating to it conforms to the provisions of Article 7;
- (b) in the case of a security agreement, the chargor has consented in writing to the registration; and
- (c) the requirements for registration set out in this Chapter and in the Rules have been complied with.

2. - A registration of an international interest in an object shall be recorded and searchable in the data base of a registry according to the manufacturer's serial number on the object or according to such other asset identification marks on the object as are specified in the Rules.

3. - Registrations shall be allocated registration numbers indicating the sequence in which the registrations occurred.

4. - Any amendment, subordination or assignment of a registered international interest shall be noted in the data base against the registration, and any registration the subject of a discharge notice shall be recorded as discharged.

5. - Registration of an international interest, or of any amendment, subordination, assignment or discharge of a registered interest, takes effect when the information

contained in the requisite notice referred to in Article 18 is entered on the data base of the international registry so as to be searchable as provided by Article 22.

6. – In this Article and Article 18 “the international registry” means the international registry established under this Convention or, where there is more than one such registry, the international registry appropriate to the category of object to which the relevant registration relates.

Article 18

1. – A person proposing to register an international interest shall transmit a registration notice to the appropriate registry.

2. – The holder of a registered international interest proposing to amend the registration or extend the registration period shall transmit a registration amendment notice to the appropriate registry before expiry of the registration.

3. – A person in whose favour an international interest has been subordinated to that person’s international interest and proposing to register the subordination shall transmit a subordination notice to the appropriate registry.

4. – Where the obligation or obligations secured by a security interest have been discharged, or the condition or conditions of transfer of title under a title reservation agreement have been fulfilled, the obligor may require the obligee to have the discharge or transfer of title recorded in the appropriate registry.

5. – The obligee may at any time, and shall where so required by the obligor under the preceding paragraph, procure discharge of the registration of the obligee’s international interest by transmitting a discharge notice to the appropriate registry.

6. – Registration of an international interest remains effective for the period of time specified in the registration notice or registration amendment notice unless previously discharged pursuant to this Article or removed from the data base of a registry pursuant to paragraph (a) of Article 23.

7. – In this Article “appropriate registry” means the international registry or a satellite registry as provided by the Rules governing the registration of the category of object to which the registration relates.

Article 19

1. – A prospective international interest may be registered in the appropriate registry with the consent in writing of the intending grantor of the interest by transmission to the registrar of a registration notice relating to the prospective international interest.

2. - The provisions of this Chapter other than paragraph 1 of Article 17 apply *mutatis mutandis* to a prospective international interest as they apply to an international interest.

3. - The intending grantor of the prospective international interest may by notice to the appropriate registry require the registration to be removed at any time before the prospective grantee of the interest has given value or incurred a commitment to give value.

Article 20

A document in the form prescribed by the Rules which purports to be a certificate issued by a registry is *prima facie* proof:

- (a) that it has been so issued; and
- (b) of the facts recorded in it, including the date of registration of the international interest and the order of registration as indicated by the registration number, and the date of registration of any amendment notice, subordination notice, assignment notice or discharge notice affecting that interest.

Article 21

A notice transmitted to a registry pursuant to this Chapter shall be accepted for the purposes of registration only if:

- (a) the proposed registration appears to be in conformity with the provisions of this Convention; and
- (b) the notice is in the form prescribed by the Rules and is accompanied by such other documents and information, and by such fee or fees, as the Rules require.

Article 22

On receipt of a search request concerning any object and made in conformity with the Rules, the registrar of a registry shall issue a registry search certificate setting out:

- (a) any information relating to the object, including the manufacturer's serial number or other asset identification mark of the object and the registration number assigned to the registration by the registry, where there is such information on the data base; or
- (b) a statement that there is no such information on the data base.

Article 23

A registration may be removed from the data base of a registry by the registrar where:

- (a) the registration appears no longer to be effective; or
- (b) on receipt of a discharge notice relating to the registration.

[Article 24

The registrar of a registry may suspend any one or more of the functions of the registry under this Convention for a period of time during which, in the opinion of the registrar, it is not practicable to provide registry services [for reasons beyond the registry's control].]

CHAPTER VII

EFFECTS OF AN INTERNATIONAL INTEREST
AS AGAINST THIRD PARTIES

Article 25

1. - Subject to the provisions of paragraph 2, competing interests registered under this Convention rank in order of their registration.

2. - A registered international interest is subordinate to a subsequently registered international interest to the extent of any [value added] [advances made] by the holder of the first-mentioned interest without a pre-existing obligation to do so and at a time when the other international interest had been registered and the holder of the first-mentioned interest had actual knowledge of it.

3. - A registered international interest has priority over an unregistered international interest, [and over an unregistered registrable national interest,] even if the holder of the registered interest acquired it after the creation of the unregistered interest and with actual knowledge of it.

4. - An interest registered under this Convention has priority over any other interest, not being an international interest [or a registrable national interest], acquired from the obligor after registration of the first-mentioned interest. [However, it is subordinate to such interest if this was acquired prior to the registration of the first-mentioned interest, whether or not it was acquired with actual knowledge of that interest.]

5. - The priority of competing interests under this Article may be varied by agreement between the holders of those interests, but an assignee of such an interest is not bound by an agreement to subordinate that interest unless at the time of the assignment a subordination notice had been registered relating to that agreement.

6. - Any priority given by this Article to an interest in an object extends to insurance proceeds payable in respect of the loss or physical destruction of that object.

Article 26

1. - Except as provided by paragraphs 4 and 5, an international interest [or registrable national interest] is valid against the trustee in bankruptcy and creditors of the obligor, including creditors who have obtained an attachment or execution, if prior to the bankruptcy, attachment or execution that interest was registered in conformity with this Convention.

2. - Except as provided by paragraphs 4 and 5, an assignment of an international interest is valid against the trustee in bankruptcy and creditors of the assignor, including creditors who have obtained an attachment or execution, if prior to the bankruptcy, attachment or execution that assignment was registered in conformity with this Convention.

3. - For the purposes of the preceding paragraphs "trustee in bankruptcy" includes a liquidator, administrator or other person appointed to administer the estate of the obligor for the benefit of the general body of creditors.

4. - [In proceedings before the courts of a Contracting State a non-consensual claim which under the law of that State would have priority over an interest in the object equivalent to that held by the holder of the international interest (whether in or outside the insolvency of the obligor) has priority over the international interest to the extent, and only to the extent, set out by that State in its instrument of ratification, acceptance, approval or accession or any subsequent instrument amending that instrument deposited with the depositary.

5.] - Nothing in this Article affects any special rules of insolvency law (other than a rule within the preceding paragraph) applicable to the insolvency of:

- (a) the obligor; or
- (b) the assignor, if any, of the international interest.

Article 27

For the purposes of this Chapter, where a registered prospective international interest becomes an international interest, the international interest shall be treated as registered from the time of registration of the prospective international interest.

CHAPTER VIII

ASSIGNMENTS OF REGISTERED INTERNATIONAL INTERESTS

Article 28

1. - The holder of a registered international interest may assign it absolutely or by way of security.
2. - An assignment of a registered international interest shall be valid only if it :
 - (a) is in writing;
 - (b) identifies the assigned registered international interest and the object to which it relates;
 - (c) in the case of an assignment by way of security, identifies the obligations secured by the assignment.
3. - An assignment under this Article shall be of the whole of the assignor's rights under the agreement creating or providing for the interest.

Article 29

An assignment of a registered international interest transfers to the assignee all the rights and priorities of the assignor under this Convention.

Article 30

1. - An assignee of a registered international interest under an assignment conforming to the provisions of Article 28 which proposes to register itself as the new holder of the interest shall transmit a registration amendment notice to the appropriate registry.
2. - The provisions of Chapter VI of this Convention other than paragraph 1 of Article 17 shall apply *mutatis mutandis* to the registration of an assignment of an international interest.

Article 31

Where a registered international interest has been assigned in accordance with the provisions of this Chapter, the obligor in relation to that interest is bound by the assignment, and has a duty to make payment to the assignee, if but only if:

- (a) the obligor has been given notice of the assignment in writing by or with the authority of the assignor;
- (b) the notice identifies the international interest; and
- (c) the obligor does not have knowledge of any other person's superior right to payment.

Article 32

1. - In the event of default by the assignor under the assignment of an international interest made by way of security, Articles 8, 9 and 11 to 15 apply as if references to:

(a) the secured obligation and the security interest were references to the obligation secured by the assignment of the international interest and the security interest created by that assignment; and

(b) the chargee and chargor were references to the assignee and assignor of the international interest.

2. - Where, in the case of an assignment by way of security, the sums collected or received by the assignee of the international interest as the result of the exercise of the remedies provided by virtue of the preceding paragraph exceed the amount secured by the security interest, then unless otherwise ordered by the court the assignee shall pay the excess to the holder of the assignment registered immediately after its own or, if there is none, to the assignor of the international interest.

Article 33

Where there are competing assignments of registered international interests and at least one of the assignments is registered, the provisions of Article 25 (other than paragraph 2) apply as if the references to an international interest were references to an assignment of an international interest.

[CHAPTER IX

REGISTRABLE NATIONAL INTERESTS

Article 34

1. - A Contracting State may in its instrument of ratification, acceptance, approval or accession set forth the non-consensual interests (not being interests or claims to which paragraph 4 of Article 26 applies) arising under an attachment or execution against an object, or by way of lien to secure payment of services rendered in respect of that object, which may be registered as international interests under this Convention.

2. - The holder of a registrable national interest proposing to register it shall transmit a national interest registration notice to the appropriate registry, and the provisions of Chapter VI, so far as appropriate, shall apply *mutatis mutandis* in relation to the registered national interest.]

[CHAPTER X

SPECIAL PROVISIONS FOR AIRCRAFT PROPERTY]

[Article ...

Add a provision providing for the application of the priority rules of the Convention to outright transfers under contracts of sale]

[CHAPTER XI

JURISDICTION]

[CHAPTER XII

RELATIONSHIP WITH OTHER CONVENTIONS]

[CHAPTER XIII

OTHER FINAL PROVISIONS]

APPENDIX

PART I

DEFINITIONS COMMON TO ALL CATEGORIES OF OBJECT

In this Convention:

- (a) "international interest" means an interest to which Article 1 applies;
- (b) "leasing agreement" means an agreement by which one person ("the lessor") grants a lease or sub-lease of an object (with or without an option to purchase) to another person ("the lessee") for a period of not less than [three] years;
- (c) "notice" means a notice in writing;
- (d) "object" means an object of a kind listed in paragraph 1 of Article 2;
- (e) "obligee" means the chargee, seller or lessor under a security agreement, title reservation agreement or leasing agreement;
- (f) "obligor" means the chargor, buyer or lessee under a security agreement, title reservation agreement or leasing agreement;
- (g) "prospective international interest" means an interest referred to in a registration notice as one that is intended to be created or provided for as an international interest in the future;
- (h) "registered" means registered in the international register pursuant to Chapter[s] VI [or IX];
- (i) ["registrable national interest" means an interest registrable under Article 34;
- (j)] "registrar" means the registrar of the International Registry;
- [(k)] "registration amendment notice" means the notice referred to in paragraph 2 of Article 18 or paragraph 1 of Article 30;
- [(l)] "registration discharge notice" means the notice referred to in paragraph 5 of Article 18;
- [(m)] "registration notice" means the notice referred to in paragraph 1 of Article 18;
- [(n)] "Rules" means rules laid down by the body referred to in sub-paragraph (c) of paragraph 2 of Article 16;
- [(o)] "secured obligation" means an obligation secured by a security interest;
- [(p)] "security agreement" means an agreement by which one person ("the chargor") grants or agrees to grant to another person ("the chargee") an interest ("security interest") in or over an object to secure the performance of an existing or future obligation of the chargor or a third person;

[(q)] "subordination notice" means the notice referred to in paragraph 3 of Article 18;

[(r)] "title reservation agreement" means an agreement by which one person ("the seller") agrees to sell an object to another person ("the buyer") on terms that ownership does not pass until fulfilment of the condition or conditions stated in the agreement;

[(s)] "unregistered" means not registered;

[(t)] "writing" means an authenticated record of information (including information sent by teletransmission) which is retrievable in tangible form for subsequent reference.

PART II

DEFINITIONS EXCLUSIVE TO AIRCRAFT PROPERTY

(a) "aircraft engines" means aircraft engines powered by jet propulsion or turbine technology that, in the case of jet propulsion aircraft engines, have at least 1750 lbs of thrust or its equivalent and, in the case of turbine-powered aircraft engines, have at least [550 rated take-off shaft horsepower] or its equivalent, all modules and other appurtenances, accessories and other parts and equipment installed or incorporated therein or attached thereto, and all technical data, manuals, log books and other records relating to all or part of any of the foregoing except aircraft engines used by governmental authorities for military, customs or police purposes;

(b) "airframes" means airframes that, when appropriate aircraft engines are installed thereon, are capable of transporting, or are certified by the initial country of registration to transport, at least ten (10) passengers or goods [in excess of 2750 kilograms], all appurtenances, accessories, furnishings, appliances and other equipment and parts (other than the aircraft engines) installed or incorporated therein or attached thereto, and all technical data, manuals, log books and other records relating to all or part of any of the foregoing except any such airframes used by governmental authorities for military, customs or police purposes.

PART III

OTHER DEFINITIONS

- (a) "containers" means containers with a cubic capacity of not less than ...;
- (b) "helicopters" means ...;
- (c) "oil rigs" means oil rigs not intended to be permanently immobilised;
- (d) "railway rolling stock" means ... ;

(e) ["registered ships" means ...;

(f)] "satellites" means cosmic ships, cosmic apparatus and other objects operating in the cosmic space. ⁽⁹⁾

⁽⁹⁾ It was recognised that this definition will need to be refined.

APPENDIX I

FIRST SET OF DRAFT ARTICLES OF A FUTURE UNIDROIT CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT

(established by the Drafting Group of the Sub-committee on 19 December 1995
as revised by the same on 4 March 1996):

COMMENTS

(by the European Federation of Equipment Leasing Company Associations)

On the occasion of its meeting on 22 April 1996, the Legal Affairs Committee of the Federation considered the first set of draft articles of a future Unidroit Convention on International Interests in Mobile Equipment (Study LXXII - Doc. 24).

Let us straight away reiterate all the reservations already voiced in our letter of 1 August 1995 (regarding Study LXXII - Doc. 16). In other words, LEASEUROPE wishes to confirm in the clearest way possible its concern at seeing the *right of ownership* assimilated, in one way or another, to a *security interest*, whatever form this might take.

For this reason, the Federation is of the view that *the right of ownership as such should be mentioned in the title* of the planned Convention.

Re Article 4 (a)

The members of the Legal Affairs Committee take the view that *the concept of the "international interest" is too vague to encompass the notion of the right of ownership*, which is the prerogative of the lessor alone. Whether in English or French, the word "interest" or "sûreté" is not adequate to describe the lessor's right.

Re Article 1 (2)(c)

This sub-paragraph refers to an interest "retained by a lessor under a leasing agreement" ("détenue par un bailleur en vertu d'un contrat de bail"). The members of the Legal Affairs Committee are also of the view that the term "*retained*" is *inadequate* in so far as the right of ownership vests in the lessor under a contract for the acquisition of the asset which is prior in time to the leasing agreement. It is therefore not a question of the lessor "retaining" this right, as it would be in the case of a simple security interest, since a leasing agreement does not necessarily involve at the outset of the transaction any transfer of the right of ownership.

Re Article 9 (1)(b)

This sub-paragraph provides that "in the event of default by the chargor under a security agreement, the chargee may take possession of any such object or sell or grant a lease of any such object ...". *The first of the two conjunctions "or" should be replaced by "and / or".*

Re Article 19 (6)

The members of the Legal Affairs Committee noted that the planned Convention would not affect any special rules of insolvency law applicable in States. *Does this provision not contradict the terms of the Convention of the European Union on Insolvency Proceedings?*

General remarks

Generally, the members of the Legal Affairs Committee doubt whether it will in practice be possible for the planned Convention to be applied in the context of the daily running of their activities.

APPENDIX II

FIRST SET OF DRAFT ARTICLES OF A FUTURE UNIDROIT CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT

(established by the Drafting Group of the Sub-committee on 19 December 1995
as revised by the same on 4 March 1996):

COMMENTS

(by Mr Peter D. Nsgos and Ms Shiva Falsafi)

The following comments are proffered to improve the first set of draft articles' (hereinafter referred to as the Proposed Convention's) application to mobile equipment placed in space.

Re Article 2(1)(g)

The definition of a "satellite" should be expanded to include a satellite's constituent parts as well as all other equipment and goods (including goods manufactured in space) during their presence in space. Possible alternatives to the term "satellite" are such phrases as "space-based property" or "satellites, transponders and other orbiting space equipment, platforms and goods". Additionally, consideration should be given to whether the appurtenant benefits to such equipment, for example domestic licenses to launch and operate space-based equipment, where permitted by applicable law, should be included. The concept of "proceeds" might also be considered for general application in the proposed Convention.

Re Article 7

Alternative I is preferable to Alternative II. Alternative I enables the parties to tailor their own unique set of remedies unless they expressly agree in writing to be bound by the remedies set out in Article 9 of the Proposed Convention. In the light of the unusual legal problems that may sometimes arise in the area of satellite financing, it may be more efficient to allow the parties to draft their own set of comprehensive remedies in applicable agreements.

Re Article 9(1)

The self-help remedies provided for in Article 9(1) will be more effective if language is included to require the debtor (i) to collect the collateral and make it available to the secured party, and (ii) to co-operate in obtaining the necessary international and domestic governmental approvals with respect to the sale, lease or other use of the space-based property.

Re Article 9(1)(a)

It is highly probable that under many circumstances the secured party will not be able to take actual possession of the collateral. Under such circumstances, Article 9(1)(a) should permit the non-judicial disposition of the collateral by the secured party by permitting constructive repossession.

Re Article 9(1)(b)

In order for a chargee to take constructive repossession of satellites that can be controlled by ground commands, it must be able to secure access and command codes. Article 9(1)(b) should provide for the co-operation by the chargor in the chargee's efforts to obtain constructive repossession of the charged object.

Re Articles 9(1)(b) and 9(1)(c)

The enforcement of remedies involving constructive repossession, sale, lease or the assumption of operations and control may be illusory in the case of financing of an entire satellite as a result of domestic governmental restrictions on the transferability and assignability of licences to operate a satellite. For this reason, co-operation by the chargor in assigning and transferring requisite domestic governmental approvals is desirable.

Re Article 9(2)

This Article would not be applicable to space-based equipment since outer space is beyond the claims of territorial sovereignty of any State.

Re Articles 14 and 14(1)

Registration requirements should be mandatory in all circumstances including the registration of rights created under a security agreement. Requiring the consent of the chargor to the registration of an interest created under a security agreement, as required by Article 14(1), undermines the Proposed Convention's goal of eliminating unpredictability regarding the perfection of security interests in space-based property (as well as other equipment covered by the proposed Convention).

Re Articles 14 and 14(5)

This Article does not provide any guidance for determining what constitutes a "seriously misleading" registration notice.

Re Article 15

This Article does not state what the consequences are in the event of an irregularity in either the registration amendment notice or the registration discharge notice.

In addition to the suggested changes to specific Articles, the proposed Convention should provide for the discharge of international interests in space-based property returned to earth or the continuation of perfection through a transfer of such international interests to an appropriate register for terrestrial-based mobile equipment.

Extending the application of the Proposed Convention to space-based property will help promote satellite financing. We commend the Institute's efforts in this very important initiative.

APPENDIX III

DRAFT DEFINITION OF "RAILWAY ROLLING STOCK"
DRAWN UP BY HOWARD ROSEN,
EXPERT CONSULTANT TO THE STUDY GROUP ON INTERNATIONAL RAIL
FINANCE MATTERS

"Railway rolling stock" shall mean vehicles moveable either directly above (through magnetic levitation), or on flanged wheels on, a railway track and which as a result may move across national boundaries being either

(i) self propelled vehicles (i.e. locomotives, whether diesel electric, gas turbine or electric, and whether their source of power is outside the vehicles);

(ii) tenders; or

(iii) any carriage, wagon or other vehicle for the transportation of

(1) people and

(2) goods including but not limited to tangible goods, mail, parcels, animals, chemicals, gases, petroleum based products and agricultural produce and other things capable of being transported,

in each case including all traction systems, brakes, axles, bogies, pantographs, accessories and other equipment and parts installed or incorporated therein or attached thereto and all technical data, manuals, notebooks and other records relating to all or part of any of the foregoing. Notwithstanding the foregoing, "railway rolling stock" shall not include:

(a) underground, suburban or commuter passenger rail transportation locomotives, power cars or wagons;

(b) light rail passenger locomotives and wagons, whether automatically or manually driven;

(c) tram or trolley cars;

(d) maintenance wagons and cranes.

APPENDIX IV

LIST OF SPECIAL PROVISIONS FOR AIRCRAFT AND AIRCRAFT ENGINES PROPOSED FOR INCLUSION IN CHAPTER X OF THE REVISED DRAFT ARTICLES ⁽¹⁾

1. - Inclusion of outright transfers in the listing of the categories of transactions covered by the Convention.
2. - Right of the parties to choose the applicable law.
3. - Inclusion of provisions, on which reservations are expressly permitted, regarding the rights of a chargee, lessor and conditional seller upon the insolvency of a chargor, lessee and conditional buyer, and associated co-operation between insolvency tribunals. See, e.g., Articles 14 and 15 of the draft aviation text. ⁽²⁾
4. - Registry system provisions specific to aircraft equipment.
5. - A remedy provision relating to the deregistration of an aircraft, for the purposes of the Chicago Convention of 1944. See, e.g., Article 23(2) of the draft aviation text.
6. - Provisions relating to the relationship between the Convention and other international Conventions applicable to aircraft equipment and the financing thereof. See, e.g., Articles 23(4) - (5) and 26(1) of the draft aviation text.
7. - A provision confirming the validity of an express waiver of sovereign immunity. See, e.g., Article 23(1)(h) of the draft aviation text.

⁽¹⁾ To be considered, along with other points applicable solely to aircraft equipment, for inclusion in a protocol relating to aircraft and aircraft engines. See Unidroit 1996 Study LXXII - Doc. 32. *Note by the Unidroit Secretariat*: this document will be distributed later.

⁽²⁾ See Unidroit 1996 Study LXXII - Doc. 25.