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INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW

COMMITTEE OF GOVERNMENTAL EXPERTS FOR THE PREPARATION OF A DRAFT
CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT AND
A DRAFT PROTOCOL ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT

*PRELIMINARY DRAFT PROTOCOL TO THE PRELIMINARY DRAFT UNIDROIT
CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT
ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT:*

COMMENTS

(submitted by the Government of Canada)

Rome, December 1998

INTRODUCTION

(by the Unidroit Secretariat)

Subsequently to its receipt of the preliminary observations by the Government of the United States of America on the preliminary draft Protocol to the preliminary draft Unidroit Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment (Study LXXIID – Doc. 3) reproduced in Study LXXII - Doc. 43/Study LXXIID – Doc. 4, the comments from the Government of Australia (Study LXXIID – Doc. 5) and the comments submitted jointly by the International Air Transport Association and the Aviation Working Group) (Study LXXI – Doc. 45/Study LXXIID – Doc. 6), the Unidroit Secretariat also received comments from the Government of Canada on the preliminary draft Protocol. This paper reproduces these comments set out hereunder.



PRELIMINARY DRAFT PROTOCOL TO THE PRELIMINARY DRAFT UNIDROIT CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT:

COMMENTS

(submitted by the Government of Canada)

I. - Preliminary general comments

The Canadian authorities feel that each Protocol should include a provision stating that a consolidated text of the Convention, as amended by a Protocol, should be prepared.

II. - Preliminary specific comments

Re Article V

Article V is another example of a provision where the term “agreement” has different meanings. In this Article the term “party” should include singular and plural.

Re Article IX(4)

It is for consideration whether the term “interested persons” should be defined and referenced to Article 9 of the *preliminary draft Convention*.

Re Article X

The imposition of a time-period on judges and courts will likely raise concerns of judicial independence. It is understood that the provision has an optional character and may not have to

be implemented in domestic law. However, if a good number of States opt out of this provision, it would lose its *raison d'être*. If that was the case, it is for consideration whether the provision should be revisited to make it acceptable to the largest number of States possible.

Re Article XIII

It seems that the treatment of aircraft engines differs from airframes as to national certification. It may be difficult to reconcile the application of both the *preliminary draft Convention and Aircraft Protocol* and the *Chicago Convention of 1944*. This Article needs to be redrafted in order to clear up the ambiguities resulting from this issue.

Re Articles XVI - XIX

Canadian consultations indicate that more work needs to be done on the Registry. It is for consideration whether "Alternative B" should be put aside for the moment and the work in relation to the Registry referred to a Working Group. All options should be carefully assessed and many questions remain to be answered. In view of this need, the Canadian authorities would encourage the formation of a Registry Working Group during the February joint Unidroit-I.C.A.O. session of governmental experts.

Re Article XIX

It is for consideration whether the duration of the registration of a prospective interest should be specified.