



**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
Second session
Rome, 26/28 October 2004**

UNIDROIT 2004
C.G.E./Space Pr./2/W.P. 4
Original: English

*PROPOSAL FOR THE APPLICATION OF THE CONVENTION
AND THE SPACE ASSETS PROTOCOL TO DEBTOR'S RIGHTS
AND RELATED RIGHTS*

(by the Space Working Group)

1. New definitions:

"debtor's rights" means all rights to performance or payment due to the debtor by any person with respect to a space asset;*

"related rights" means any permit, licence, authorisation, concession or equivalent instrument that is granted or issued by, or pursuant to the authority of, a national or intergovernmental or other international body or authority to manufacture, launch, control, use or operate a space asset, relating to the use of orbits and the transmission, emission or reception of electromagnetic signals to and from a space asset; *

"rights assignment" means a contract which, by way of security, transfers to the assignee the chargee's interest in debtor's rights or related rights;

"rights security agreement" means an [agreement] [Ref. Art. 1(ii)] by which a chargor grants or agrees to grant to a chargee an interest (including an ownership interest) in or over debtor's rights or related rights to secure the performance of any existing or future obligation of the chargor or a third person;

2. New provisions:

Article IV – Application of the Convention to Debtor's Rights and Related Rights

IV. 1. As provided by the terms of this Protocol, the Convention provides for the constitution and effects of international interests in debtor's rights and related rights, provided such rights are related to a space asset. [Ref. Art. 2]

* The definitions of "debtor's rights" and "related rights" included here are those reproduced in the text of the preliminary draft Protocol as revised by the Committee of governmental experts at its first session (C.G.E./Space Pr./2/W.P. 3).

IV. 2. For purposes of this Protocol, an international interest in debtor's rights or related rights is an interest in debtor's rights or related rights granted by the chargor under a rights security agreement and constituted under paragraph 3 [Ref. Art. 2(2)]

IV. 3. An interest in debtor's rights or related rights is constituted as an international interest under this Protocol where the rights security agreement creating or providing for the interest:

(a) is in writing;

(b) relates to a space asset;

(c) enables the debtor's rights or related rights and the space asset to which it relates, to be identified in conformity with Article VII; and

(d) enables the obligations secured by the interest created or provided for by the rights security agreement to be determined, but without the need to state a sum or maximum sum secured. [Ref. Art. 7]

IV. 4. Registration of international interest in debtor's rights and related rights

(1) An international interest in debtor's rights and related rights may be registered [in the International Registry] by either party with the consent in writing of the other, but only if and no earlier than an international interest or prospective international interest in the space asset to which it relates is registered in favour of the same chargee. [Ref. New and Art. 20(1)]

(2) Any international interest registered pursuant to paragraph (1) may be amended or extended prior to its expiry by either party with the consent in writing of the other. [Ref. Art 20(1)]

(3) The subordination of an international interest to another international interest may be registered by or with the consent in writing at any time of the person whose interest has been subordinated. [Ref. Art. 20(2)]

(4) A registration may be discharged by or with the consent in writing of the party in whose favour it was made. [Ref. Art. 20(3)]

(5) The acquisition of an international interest by legal or contractual subrogation may be registered by the subrogee. [Ref. Art. 20(4)]

IV. 5. The following provisions of the Convention shall apply in relation to debtor's rights and related rights:

Articles 29 and 30 [Ref. Arts. 29 and 30] [To be further reviewed]

IV. 6. Effects of rights assignment

A rights assignment made in conformity with paragraph 7 also transfers to the assignee:

(a) all the interests and priorities of the assignor under the Convention; and

(b) the international interest in the related space asset. [Ref. Art. 31(1)]

IV. 7. Formal requirements of rights assignment

(1) A rights assignment transfers the international interest in the debtor's rights and related rights only if it:

(a) is in writing; and

(b) enables the debtor's rights or related rights to be identified.

(2) The Convention does not apply to a rights assignment that is not effective to transfer the international interest in the related space asset and associated rights [Ref. Art. 32(1) and (3)].

IV. 8. Default remedies in respect of international interests in debtor's rights and related rights

In the event of default by the chargor under a rights security agreement constituting an international interest in debtor's rights or related rights and the international interest in the related space asset, Articles 8, 9 and 11 to 14 of the Convention apply in the relations between the chargor and the chargee as if references:

(a) to the secured obligation were references to the obligation secured by the rights security agreement;

(b) to the security interest were references to the interest created by that rights security agreement;

(c) to the creditor and debtor were references to the chargee and chargor; and

(d) to the object were references to debtor's rights or related rights and the related international interest. [Ref. Art. 34]

IV. 9. Relationship with the United Nations Convention on the Assignment of Receivables in International Trade

The Convention shall prevail over the United Nations Convention on the Assignment of Receivables in International Trade, open for signature in New York on 12 December 2001, as it relates to rights assignments. [Ref. Art. 45 bis]



