



**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  
Third session  
Rome, 7/11 December 2009**

UNIDROIT 2009  
C.G.E./Space Pr./3/W.P. 15  
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**SUMMARY REPORT**

**FOR**

**7 DECEMBER 2009**

*(prepared by the UNIDROIT Secretariat)*

**Opening of the session**

1. Mr J.A. Estrella-Faria, Secretary-General of UNIDROIT, opened the third session of the 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 (hereinafter referred to as the *Committee*), held at the Headquarters of the Food and Agriculture Organization of the United Nations in Rome, at 9.57 a.m. on 7 December 2009, and welcomed the delegates. He invited the Committee to confirm the chairmanship previously held by Mr S. Marchisio (Italy) during the first and second sessions of the Committee.

2. Mr Marchisio was confirmed as Chairman. He welcomed the participating delegates and summarised the intersessional work that had taken place since the second session of the Committee, held in Rome from 26 to 28 October 2004. He also drew attention to the 2004 position paper prepared by the UNIDROIT Secretariat and the Space Working Group which laid out the reasons why the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets, as it emerged from the first session of the Committee, held in Rome from 15 to 19 December 2003 (hereinafter referred to as the *preliminary draft Protocol*) (C.G.E./Space Pr./3/W.P. 4), was important for the space industry. He invited the Committee to consider whether the goals outlined in that paper were still valid and to resolve the issues dealt with in the intersessional work.

**Agenda Item No. 1 on the revised draft agenda: Adoption of the Agenda**

3. The revised draft Agenda (C.G.E./Space Pr./3/W.P. 1 rev.) was adopted by the Committee.

**Agenda Item No. 2 on the revised draft agenda: Organisation of work**

4. Mr M.J. Stanford, Deputy Secretary-General of UNIDROIT, illustrated the Order of business (C.G.E./Space Pr./3/O.B. 1) proposed for the session. He noted that the Drafting Committee of the Committee (hereinafter referred to as the *Drafting Committee*) would be meeting following

the daily work of that Committee, beginning on Tuesday 8 December 2009. The Drafting Committee was comprised of the Governments of Canada, the People's Republic of China, France, Nigeria, Tunisia, the United Kingdom and the United States of America. The Drafting Committee was co-chaired by the United Kingdom (Professor Sir Roy Goode) and Canada (Mr J.M. Deschamps).

5. The Committee adopted the order of business as proposed.

6. The Chairman invited delegates to make any general comments.

7. The representative of the Government of the United Kingdom introduced a proposal (C.G.E./Space Pr./3/W.P. 12) based on concerns conveyed to it by stakeholders in the satellite industry and lawyers regarding what they had identified to be weaknesses in the preliminary draft Protocol. The proposal called for any further work refining the text of the preliminary draft Protocol to be postponed, following the current session of the Committee, until the UNIDROIT Secretariat had commissioned an economic assessment of the benefits of the preliminary draft Protocol, as it emerged from the current session of the Committee. The representative added that the proposal left it to the UNIDROIT Secretariat to determine who should conduct such an economic assessment. A few delegations supported this proposal, noting that industry support was critical for the development of the preliminary draft Protocol and that, in their consultations with stakeholders in the satellite industry, the obstacles intended to be overcome by the preliminary draft Protocol were rare.

8. However, many delegations were in favour of the Committee continuing its work, noting the following reasons: the UNIDROIT Governing Council at its last session, held in April of this year, had given the highest priority to the timely completion of the preliminary draft Protocol; it was important for the Committee to take into account a broad view of the stakeholders in the preliminary draft Protocol, including those in developing and emerging economies, noting the potential benefits of the preliminary draft Protocol for developing infrastructure in such economies; the application of the preliminary draft Protocol extended beyond communication satellites and that the completion of a commercially viable instrument would benefit the various sectors of the commercial space sector; and the preliminary draft Protocol was not mandatory and that it was up to individual States to determine whether they would ratify the preliminary draft Protocol in future.

9. It was agreed that the work of the Committee should not be postponed. Some States questioned the appropriateness of contemplating an economic assessment of the benefits of the preliminary draft Protocol at such an advanced stage in the process and other States suggested that this was a matter for the Governing Council. However, there was also an indication that, subject to whether available financial resources could be found, some States would not object to such an assessment being conducted following the current session of the Committee. It was agreed that this matter should be revisited at the end of the session of the Committee.

**Agenda Item No. 3 on the revised draft agenda: consideration of the preliminary draft Protocol (C.G.E./Space Pr./3/W.P. 4) and an alternative version of the preliminary draft Protocol prepared by Sir Roy Goode (United Kingdom) and Mr J.M. Deschamps (Canada) - as Co-chairmen of the Drafting Committee of the Committee - to reflect the conclusions reached by the Steering Committee, set up by the General Assembly at its 61st session, held in Rome on 29 November 2007, to build consensus around the provisional conclusions reached by the Government/industry meeting held in New York on 19 and 20 June 2007 (C.G.E./Space Pr./3/W.P. 5 rev.) (hereinafter referred to as the *alternative text (policy issues)*), *inter alia* in the light of the comments and**

**proposals submitted by Governments, Organisations and the international commercial space, financial and insurance communities (C.G.E./Space Pr./3/W.P. 9):**

**A. DEFINITION OF "SPACE" AND "SPACE ASSETS" (Article I(2)(g) of the preliminary draft Protocol / Article I(2)(j) and (k) of the alternative text (policy issues))**

10. Discussions were based on Article I(2)(g) of the preliminary draft Protocol, Article I(2)(j) of the alternative text (policy issues) and a proposal by the Government of Japan (C.G.E./Space Pr./3/W.P. 10).

11. The following issues were raised during the course of discussion:

- the appropriateness of adopting a more general definition of space asset within the preliminary draft Protocol while leaving the more specific details to be worked out in the identification criteria for purposes of registration;
- the appropriateness of the inclusion of a definition for the term "space" as proposed in Article I(2)(j) of the alternative text (policy issues);
- the appropriateness of inclusion of the phrase "any such asset in course of manufacture or assembly" within the definition of space asset;
- the linkage between the definition of space asset and default remedies in relation to components; and
- the appropriateness of the inclusion of the phrase "all data, manuals and records relating thereto" within the definition of space asset.

12. The Committee reviewed the different texts of the definition of space asset and showed a general preference for the definition as it appeared in the alternative text (policy issues) pending further refinement that would take into account certain aspects of the proposal by the Japanese Government.

13. During the course of discussion, the Chairman of the Committee's Sub-committee to examine certain aspects of the future international registration system for space assets (C.G.E./Space Pr./3/W.P. 7 rev.) gave a brief summary of the conclusions that emerged from that Sub-committee's first meeting, held in Rome on 26 and 27 October 2009, in respect of identification criteria for space assets for purposes of registration.

14. It was also noted that the question of both the definition of space assets as it relates to components and the related question of default remedies in relation to components merited the continuation of the work of the Sub-committee set up by the Steering Committee on default remedies in relation to components as a working group of the Committee with, as members, the same members as that Sub-committee, namely Germany, Italy, Japan, the United Kingdom and the United States of America, with France, and, as observers, Ms C.J. Dubreuil (EADS Astrium), Mr O. Heinrich (BHO Legal Partnership), Ms M. Leimbach (Crédit Agricole S.A.), and Mr B. Schmidt-Tedd (German Space Agency).

15. The work to be referred to the Drafting Committee of the Committee was left to be decided at the following session of the Committee.

16. The Chairman ended the session of the Committee at 5.05 p.m.