Intelsat and SES have been following the order of business during the initial two days of the Third Session of the UNIDROIT Committee of Governmental Experts on the Draft Space Assets Protocol. We submit the following statement as an expression of our views, which are representative of many in industry, including financial institutions, aerospace manufacturers, insurance companies and industry associations as well as other small and large satellite operators.

As you may be aware, many of these industry participants have expressed their opposition to the Protocol in letters directly from such participants and from all principal satellite organizations: the Satellite Industry Association, the European Satellite Operators Association, the Asia-Pacific Satellite Communications Council and the Global VSAT Forum, which collectively represent more than 200 satellite industry members (we have attached a list of the letters expressing opposition to and concerns regarding the draft Protocol).
Despite the constructive exchanges we have witnessed in the past days, we continue to believe that there is no apparent demand or driving force for a Protocol. As a result, we urge UNIDROIT to reconsider the need for a Protocol.

More specifically, we believe that the new supra-national legal regime established by the Protocol would create confusion, lack of certainty and potential conflicts which will likely inhibit the very financing that the Protocol seeks to encourage.

Contrary to the Protocol’s purpose, the resulting conflict may actually limit commercial opportunities and transactions (particularly for small operators.) This could lead to a chilling effect on future financings should lenders decide that the Protocol adds risks that they are not willing to assume.

We would like to stress that, based on our experience, the lack of a Protocol has not prevented secured satellite financing. Indeed there is no evidence that creditors have not provided financing due to lack of sufficient international protection of their security interests.

We recognize that you have made the determination to continue in the preparation of a draft Protocol. While we respect the prerogative of the Committee, we urge you to carefully consider the interests and concerns of the space industry and the financial community that supports it in the work it performs.

If UNIDROIT believes that further investigation of this issue is required, we would urge UNIDROIT to put together a study to determine whether access to capital is available today, and if not, what are the issues limiting that access. We recommend that the study also address the specific problems that would be addressed by the Protocol, why is the Protocol needed and a cost/benefit analysis of the Protocol. We would further urge that the study reach out to all elements of the commercial space industry including manufacturers, operators, lenders, and insurers, to gain a broad perspective of how the industry functions today. Finally, given that the goal of such a Protocol is to increase access to capital for the commercial satellite industry, we would request that the study ascertain whether the commercial sector would in fact embrace the creation of the new supra-national regime that would be created by the Protocol. Upon completion of the study, UNIDROIT and industry could revisit whether or not a Protocol is needed.

Without the careful consideration of the interests and needs of the entities that have the most at stake in relation to the draft Protocol, the result of the work of the Committee will be to harm the satellite sector. A draft Protocol that disadvantages the space community is worse than having no Protocol at all. We encourage UNIDROIT, therefore, to reconsider its position towards the Protocol.
ATTACHMENT

LIST OF LETTERS OPPOSING THE SPACE PROTOCOL SENT TO UNIDROIT

- Intelsat, SES and Eutelsat’s letters to UNIDROIT, dated September 24, 2008 and May 12, 2009
- Satellite Industry Association (SIA)’s letters to UNIDROIT, dated November 3, 2009 and November 23, 2009
- Asia-Pacific Satellite Communications Council (APSCC)’s letter to UNIDROIT, dated November 25, 2009
- European Satellite Operators Association (ESOA)’s letters to UNIDROIT, dated October 10, 2008 and December 1, 2009
- Marsh’s letter to UNIDROIT, dated October 10, 2009
- Elseco’s letter to UNIDROIT, dated November 24, 2009
- Global VSAT Forum’s letter to UNIDROIT, dated November 23, 2009
- ManSat’s letter to UNIDROIT, dated November 24, 2009
- ING’s letters to UNIDROIT, dated October 22, 2004 and November 24, 2009
- QuetzSat’s letter to UNIDROIT, dated November 18, 2009
- Aon – ISB’s letter to UNIDROIT, dated November 4, 2009
- Barclays Capital’s letter to UNIDROIT, dated November 23, 2009
- O3b Networks’ letter to UNIDROIT, dated December 1, 2009

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iii ESOA’s Members: Astrium Services, Eurasiasat, Eutelsat, Hellas Sat, Hispasat, Inmarsat, SES, SES Sirius, Telenor and Telespazio. Arianespace, Astrium Satellites, Avanti, International Space Brokers, Mansat, Marsh, Newtec, Solaris Mobile, Thales Alenia Space and Willis are Supporting Members of ESOA.

iv The Global VSAT Forum is an association of key companies involved in the business of delivering advanced digital fixed satellite systems and services to consumers, and commercial and government enterprises worldwide. It comprises more than 200 companies from 100 countries in every major region of the world and from all sectors of the satellite industry. For a complete Global VSAT Forum’s member directory see <http://www.gvf.org/members_directory/index.cfm>.