



INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW  
INSTITUT INTERNATIONAL POUR L'UNIFICATION DU DROIT PRIVE

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**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  
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**PRELIMINARY DRAFT PROTOCOL  
TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT  
ON MATTERS SPECIFIC TO SPACE ASSETS**

(as revised by the Committee of governmental experts at its first session  
(Rome, 15/19 December 2003))

and

**ALTERNATIVE TEXT OF THE PRELIMINARY DRAFT PROTOCOL,  
IMPLEMENTING POLICY ISSUES  
REFERRED TO AND EXAMINED BY THE STEERING COMMITTEE**

(prepared, at the request of the Steering Committee,  
for presentation to the Committee of governmental experts,  
by Professor Sir Roy Goode (United Kingdom) and Mr Michel Deschamps (Canada)):

**COMMENTS**

**on the alternative text**

*(submitted by Intelsat and SES)*

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<sup>i</sup> letters to UNIDROIT, dated November 3, 2009 and November 23, 2009
- Asia-Pacific Satellite Communications Council (APSCC)'s<sup>ii</sup> letter to UNIDROIT, dated November 25, 2009
- European Satellite Operators Association (ESOA)'s<sup>iii</sup> 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<sup>iv</sup> 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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<sup>i</sup> **SIA's Executive Members:** [ARTEL Incorporated](#), [The Boeing Company](#), [CapRock Government Solutions](#), [DirecTV](#), [Hughes Network Systems](#), [ICO Global Communications](#), [Integral Systems](#), Intelsat, [Iridium Satellite LLC](#), [Lockheed Martin](#), [Loral Space & Communications](#), [Northrop Grumman](#), [Rockwell Collins](#), [SES Americom](#), SkyTerra, [TerreStar Networks](#).

**SIA's Associate Members:** [Alliant Techsystems](#), [Comtech EF Data](#), [DRS Technologies](#), [EchoStar](#), [Emerging Markets Communications, Inc.](#), [Eutelsat](#), [iDirect Government Technologies](#), Inmarsat, [Marshall Communications Corp.](#), [Panasonic Avionics Corporation](#), [SAT-GE](#), [Spacecom, Ltd.](#), [Stratos Global](#), Telesat, ViaSat, [Wildblue Communications](#).

<sup>ii</sup> **APSCC's Members:** AAE Systems, Inc., Aetheric Engineering Ltd., American Samoa: American Samoa Telecommunications Authority, APSI (Asia Pacific Satellite Industries. Co. Ltd), APT Satellite Holdings Limited, Arianespace, Asia Broadcast Satellite (HK) Ltd. (ABS), Asia Cellular Satellite Systems (ACeS), Asia Satellite Telecommunications Co., Ltd. (AsiaSat), ASSI (The Indonesian Satellite Association), ASTOS (The Association of Specialist Technical Organisations for Space), Bangladesh: MOSICT (Ministry of Science and Information & Communication Technology), Bharat Sanchar Nigam Ltd. (BSNL), Boeing Satellite Systems International Inc., Broadcasting Satellite System Corp. (B-Sat), Cambodia: MPTC (Ministry of Posts & Telecommunications, Cambodia), CASBAA (Cable and Satellite Broadcasting Association of Asia), China Great Wall Industry Corp., Chunghwa Telecom Co., Ltd., Cisco Systems Inc., CSA (California Space Authority), CUA-SCBT (Chinese Users Association for Satellite Communications, Broadcasting & -Television), Dongbu Insurance Co., Ltd., DU EITC (Emirates Integrated Telecommunications Company, PJSC), EADS Astrium, Edward W Kelley & Partners Inc., Electronics and Telecommunications Research Institute (ETRI), Eutelsat S.A., FIJI: Ministry of Information, Communications and Media Relations, Gilat Satellite Networks Ltd., GlobeCast Asia, Globecom Systems, Inc., Glowlink Communications Technology Inc., GMV Aerospace and Defence, S.A., High Gain Antenna Co. Ltd., Hughes, Hyundai Marine & Fire Insurance, iDirect Technologies Inc., Indian Space Research Organisation, INMARSAT, Integral Systems, Intellian TechnologiesTM, INTELSAT Ltd., International Launch Services (ILS), International Space Brokers Group (ISB), INTERSPUTNIK (International Organization of Space Communications), IOT Systems, LLC, Iranian Space Agency (ISA), Iridium Satellite LLC, ISS Corp. (Integrated Satellite Solutions Corp.), Japan Aerospace Exploration Agency (JAXA), Jiang Tai Insurance Broker Co., Ltd., Korea Aerospace Industries, Ltd., Korea Aerospace Research Institute, Korea Digital Satellite Broadcasting (SkyLife), KOSPACE Co., Ltd, KT Corp., LG Dacom Corp., LIG Insurance Co., Ltd, Lockheed Martin Commercial Space Systems, Mabuhay Satellite Corp., Marsh Ltd., Marshall Islands: MOTC (Ministry of Transportation & Communication, Marshall Islands), MEASAT Satellite Systems Sdn., Bhd., Merits Insurance Co., Ltd., Mitsubishi Electric Corp., Mitsubishi Heavy Industries, Ltd., Mongolia Telecom Company, Mongolia: ICTPA (Information, communication Technology and Post Authority), MSUA

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(Mobile Satellite Users Association), Nanotronix, National Institute of Information and Communications Technology (NICT), NEC Corporation(NEC), NTT DoCoMo Inc., Orbital Sciences Corp., Papua New Guinea: Papua New Guinea Radiocommunications and Telecommunications Technical Authority (PANGTEL), Patriot Antenna Systems, PITA (Pacific Islands Telecommunications Association), ProtoStar Ltd., PT. Telekomunikasi Indonesia, Tbk, PTC (Pacific Telecommunications Council), PTCL (Pakistan Telecommunication Company Ltd), Russian Satellite Communications Company (RSCC), Samsung Fire & Marine Insurance Co., Ltd, Satel Conseil International, Satellite Evolution Asia, DS Air Publications, Sea Launch Company, LLC, SES World Skies, SIA (Satellite Industry Association), SINGAPORE: Infocomm Development Authority, Singtel Optus (Singapore Telecommunications Ltd.), SK Telecom, SKY Perfect JSAT Corporation, Smart Digital Communications Bhd., Space Systems/Loral, SpeedCast Limited, SUIRG (Satellite Users Interference Reduction Group, Inc.), Telesat, THAICOM Public Company Limited, Thailand: MICT (Ministry of Information and Communication Technology, Thailand), Thales Alenia Space, Thuraya Satellite Telecommunications Company, Via Satellite, Access Intelligence, ViaSat, Inc., Vietnam: Vietnam Telecom International (VTI), WTA(World Teleport Association), 1worldspace Asia Space Limited.

<sup>iii</sup> **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.

<sup>iv</sup> 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](http://www.gvf.org/members_directory/index.cfm)>.