



**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
Fifth session
Rome, 21/25 February 2011**

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C.G.E./Space Pr./5/W.P. 24
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**SUMMARY REPORT
FOR
25 FEBRUARY 2011**

(prepared by the UNIDROIT Secretariat)

Opening of the session

1. The Chairman opened the session at 11.10 a.m.

Agenda Item No. 3 on the draft agenda: consideration of the revised preliminary draft Protocol as it emerged from the fourth session of the UNIDROIT Committee (C.G.E./Space Pr./5/W.P. 3): continued

Consideration of the revised Report of the Drafting Committee (C.G.E./Space Pr./5/W.P. 21 and Add.)

2. The co-Chairman of the Drafting Committee presented the proposals by the Drafting Committee, illustrating the incorporation of the suggestions and comments which members of the Committee had made during the Committee's consideration of the Report of the Drafting Committee (C.G.E./Space Pr./5/W.P. 20) the day before.

Re: Article I(2)(e)

3. One delegation expressed some concern over the use of the term "applicable law", because in other parts of the revised preliminary draft Protocol such a term referred to the law applied by foreign courts in the context of litigation and wondered whether the use of this term was appropriate in this provision. It was, therefore, asked that the square brackets around this provision be left in place and more time be given for consideration. It was so agreed.

Re: Article I(3)

4. The delegation which had expressed concern over the reference to the United Nations General Assembly Resolution in sub-sub-paragraph (iii) withdrew its concern and, on the understanding that it might raise its concerns again on a future occasion, agreed that the square brackets could be removed. It was so agreed.

5. Another delegation noted that it still had some reservations about the reference to Article 1(n) of the Convention in Article I(3) and asked that the square brackets around that reference be left in place

whilst it and any other interested delegations consulted on the appropriate treatment of Article 1(n) in this context. It was so agreed.

Re: Article II(3)

6. One delegation expressed some concern with the formulation of this Article, particularly for those manufacturers who were developing hybrid vehicles that would be able to operate in both outer and air space. It further noted that the classification of an asset should be as clear as possible, so as not to create additional regulatory obstacles for those manufacturers wishing to develop such hybrid vehicles. It suggested that the text might read something along the lines of "vehicles which are manufactured for the purpose of being used in space will not constitute an aircraft object under the Aircraft Protocol". The delegation in question, therefore, requested that the square brackets be left around Article II(3) to allow for further careful consideration. It was so agreed.

Re: Article XXVI

7. In relation to the proposal contained in C.G.E./Space Pr./5/W.P. 14, one delegation indicated that the proposal required careful consideration, that it had not yet completed its own domestic consultations and that it was not yet able to provide its view on the proposal. It indicated the possibility that it might ultimately be in a position to suggest a combination of the existing text with aspects of the proposal and suggested that it would have no objection to the proposal being included, in square brackets, in the text of the revised preliminary draft Protocol. It invited the Secretariat to explore opportunities for States and representatives of the commercial space sector to engage in a dialogue on the proposal in the period leading up to any future diplomatic Conference.

8. The delegation that had tabled the proposal recommended that the existing text of Article XXVI(2) should be deleted and that the text contained in its proposal should be included, in square brackets, in the text of the revised preliminary draft Protocol, owing to the broad support that the proposal had received during its earlier consideration by the Committee. Several delegations supported this approach, subject to the text of the proposal being amended to incorporate the changes that had been discussed and agreed by the Committee.

9. Other delegations indicated that it would not be appropriate to remove the existing text of Article XXVI(2) nor to place it in square brackets, adding that their concerns to the references in the proposal to concepts such as international peace and security required very careful consideration given the commercial focus of the revised preliminary draft Protocol.

10. The Chairman invited interested delegations to undertake consultations with a view to identifying a recommended approach and, in the absence of such an approach being identified and agreed to by the Committee, indicated that he would recommend to the Committee that the proposal be included, in square brackets, in the text of the preliminary draft Protocol.

Re: Article XXVII

11. One delegation indicated that further consideration would need to be given to the question of whether the notice requirements under paragraphs 2 and 3 of Article XXVII were consistent with the basic notice filing function of the International Registry. The Committee agreed that this issue would need to be further considered.

12. One delegation indicated that the definition of "public service notice" in Article XXVII(2) should also require that the notice identify the relevant space asset. The Committee agreed that this issue would need to be further considered.

13. Several delegations proposed that Article XXVII(3) should either require the notification to be made by the creditor either immediately or without delay or provide that the six-month time-period should be calculated only from the later of the date of registration of the public service notice and the date of notification of that notice to the debtor. The Committee agreed that Article XXVII(3) should be amended to require the notification by the creditor to be made promptly.

14. In relation to Article XXVII(4), one delegation questioned whether it would be necessary for a copy of the notice to be provided with the notification to the debtor. The Committee agreed that the second sentence of Article XXVII(4) should be deleted.

15. One delegation suggested that sub-paragraph 5(b) of Article XXVII should be amended so as to clarify that the proceedings referred to therein were proceedings concerning the appointment of another operator. The Committee agreed that this issue would need to be further considered.

16. One delegation pointed out that the cross-reference to paragraph 2 in Article XXVII(6) was wrong; this reference should be to paragraph 3.