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Item No. 5 on the agenda: International Interests in Mobile Equipment –
(c) Preparation of other Protocols to the Cape Town Convention, in particular on
matters specific to agricultural, mining and construction equipment

(Memorandum prepared by the Secretariat)

<i>Summary</i>	<i>Update on industry consultation activities undertaken by the Secretariat</i>
<i>Action to be taken</i>	<i>See § 5</i>
<i>Mandate</i>	<i>Work Programme 2006-2010</i>
<i>Priority level</i>	<i>To be determined</i>
<i>Status</i>	<i>Ongoing activity</i>
<i>Related documents</i>	<i>/</i>

INTRODUCTION

1. The *Convention on International Interests in Mobile Equipment* (the Convention) was opened for signature in Cape Town on 16 November 2001. Article 2(3) of the Convention anticipates that the initial 3 protocols would cover aircraft, railway rolling stock and space assets; Protocols related to aircraft and to railway rolling stock have been adopted, and the Protocol related to space assets is in an advanced state of development. Article 51 of the Convention provides that the process to be followed for the development of additional future protocols would involve the creation of working groups.

ACTIVITIES

2. At its 88th session, the Governing Council mandated the Secretariat to sound out Governments and private actors in relation to a proposed fourth Protocol dealing with high-value agricultural, mining and construction equipment, and to seek ways of narrowing down the scope of the proposed instrument.

3. The Secretariat focussed its efforts on two States, Germany and the United States, which had previously communicated potentially strong interest in the development of the Protocol. In the case of Germany, the Secretariat worked closely with the Bundesministerium der Justiz, and wrote to over 50 of the key stakeholders (major manufacturers/exporters, banks and financial institutions, and industry federations and groups) with an invitation to provide comments on the proposed Protocol by 2 April 2010, and an invitation to attend an “Information Forum for Industry” which was held at the Berlin headquarters of the Bundesministerium der Justiz on Thursday 11 March 2010. Six stakeholders attended the industry forum, and demonstrated a general level of interest in, and support for, the development of the proposed Protocol. Two written comments were received, one (from Caterpillar Financial) indicating general support for the development of the proposed Protocol, the other (from the Zentraler Kreditausschuss – the joint committee operated by the central associations of the German banking industry) raising doubts as to whether there was a need for an international security given that most agricultural, mining and construction equipment is used predominantly inside national borders.

4. In March 2010 the United States Department of Transport coordinated a consultation with several representatives of the Equipment Financing Association (which represents over 600 companies), and reported that the responses were positive, and that the Equipment Financing Association would consult further with its membership.

ACTION TO BE TAKEN

5. *The UNIDROIT Secretariat would invite the Governing Council to note of the actions taken, and to consider authorising the UNIDROIT Secretariat to continue its liaison with industry representatives.*