

# **FINAL ACT**

**of the diplomatic Conference for the adoption of the draft Protocol to  
the Convention on International Interests in Mobile Equipment  
on Matters specific to Space Assets  
held at the invitation of the Government of the Federal Republic of Germany and under  
the auspices of the International Institute for the Unification of Private Law (UNIDROIT)  
in Berlin from 27 February to 9 March 2012**

## **RESOLUTION 1**

### **RELATING TO THE SETTING UP OF THE PREPARATORY COMMISSION FOR THE ESTABLISHMENT OF THE INTERNATIONAL REGISTRY FOR SPACE ASSETS**

THE DIPLOMATIC CONFERENCE FOR THE ADOPTION OF THE DRAFT PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO SPACE ASSETS (meeting in Berlin from 27 February to 9 March 2012),

HAVING ADOPTED the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets (the Protocol);

HAVING REGARD to Article XXVIII(1) of the Protocol;

BEARING IN MIND the Convention on International Interests in Mobile Equipment (the Convention), opened to signature in Cape Town on 16 November 2001;

CONSCIOUS of the need to undertake preparatory work regarding the establishment of the International Registry for space assets in order to ensure that it be operational by the time when the Protocol enters into force;

CONSIDERING the advantages of formulating the policies and procedures as well as adapting the procedures employed in establishing the International Registry for aircraft objects and the International Registry for railway rolling stock in order to facilitate the expeditious establishment of the International Registry for space assets and contain the costs thereof to the extent possible;

#### **RESOLVES:**

TO ESTABLISH, pending the entry into force of the Protocol, a Preparatory Commission to act with full authority as Provisional Supervisory Authority for the establishment of the International Registry for space assets, under the guidance of the General Assembly of UNIDROIT. Such Preparatory Commission shall be composed of persons, having the necessary qualifications and experience, nominated by one-third of the negotiating States, with the International Telecommunication Union (ITU), the International Civil Aviation Organization (ICAO), the Intergovernmental Organisation for Carriage by Rail (OTIF) and representatives of the commercial space, financial and insurance communities and other interested parties being invited to participate in the work of the Preparatory Commission as observers;

TO INSTRUCT the Preparatory Commission to carry out, under the guidance of the General Assembly of UNIDROIT, the following three specific functions:

- (1) to ensure that the international registration system be set up, in accordance with an objective selection process, and that it become ready to be operated, with a target date of three years from the adoption of the Protocol, by the time of the entry into force of the Protocol;
- (2) to ensure the necessary liaison and co-ordination with the commercial space, financial and insurance communities which will be users of the International Registry for space assets; and

- (3) to work on such other matters relating to the International Registry for space assets as may be required with a view to ensuring the establishment of that International Registry;

TO INVITE the General Assembly of UNIDROIT, in the event of the governing bodies of ITU deciding that the latter should not become the Supervisory Authority of the International Registry for space assets, to appoint another international Organisation or entity as Supervisory Authority of that International Registry upon or after the entry into force of the Protocol;

TO INVITE the Supervisory Authority to establish a Commission of Experts consisting of not more than 20 members from among persons nominated by the Signatory and Contracting States to the Protocol, having the necessary qualifications and experience, with the task of assisting it in the discharge of its functions.

## **RESOLUTION 2**

### **RELATING TO THE ESTABLISHMENT OF THE SUPERVISORY AUTHORITY OF THE INTERNATIONAL REGISTRY FOR SPACE ASSETS**

THE DIPLOMATIC CONFERENCE FOR THE ADOPTION OF THE DRAFT PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO SPACE ASSETS (meeting in Berlin from 27 February to 9 March 2012),

HAVING ADOPTED the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets (the Protocol);

HAVING REGARD to Article XXVIII(1) of the Protocol;

BEARING IN MIND the Convention on International Interests in Mobile Equipment (the Convention), opened to signature in Cape Town on 16 November 2001;

IN THE LIGHT OF the adoption by the Conference of Resolution 1 relating to the setting up of the Preparatory Commission for the establishment of the International Registry for space assets;

CONSIDERING the interest expressed at the Conference by the observer representing the Secretary-General of the International Telecommunication Union (ITU) for the ITU to consider becoming Supervisory Authority of the International Registry for space assets, subject to consideration of the matter by the governing bodies of the ITU and without prejudice to the decision to be taken by them in this regard, in the light of the outcome of the Conference, taking into account the financial, juridical and technical implications of such a decision;

RESOLVES:

TO INVITE the governing bodies of the ITU:

- (1) to consider the matter of the ITU becoming Supervisory Authority upon or after the entry into force of the Protocol and take the necessary action, as appropriate; and
- (2) to inform the Secretary-General of UNIDROIT accordingly.

### **RESOLUTION 3**

#### **RELATING TO THE REGULATIONS OF THE INTERNATIONAL REGISTRY FOR SPACE ASSETS**

THE DIPLOMATIC CONFERENCE FOR THE ADOPTION OF THE DRAFT PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO SPACE ASSETS (meeting in Berlin from 27 February to 9 March 2012),

HAVING ADOPTED, in Article XVII(3) of the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets, provisions contemplating the enforcement of an international interest in a space asset that is physically linked with another space asset;

RESOLVES:

TO INVITE the Supervisory Authority of the International Registry for space assets (the International Registry) to ensure that, so far as practicable, any search of the International Registry relating to physically linked assets reveal all international interests registered against such assets, as also any rights assignments, acquisitions by subrogation and rights reassignments recorded as part of the registration of those assets.

## **RESOLUTION 4**

### **RELATING TO THE PROVISION OF REASONABLE DISCOUNTS ON EXPOSURE RATES TO DEBTORS BY FINANCING ORGANISATIONS**

THE DIPLOMATIC CONFERENCE FOR THE ADOPTION OF THE DRAFT PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO SPACE ASSETS (meeting in Berlin from 27 February to 9 March 2012),

MINDFUL of the objectives of the Convention on International Interests in Mobile Equipment and the Protocol thereto on Matters specific to Space Assets;

DESIROUS to achieve the provision of affordable financing of space assets for developing countries;

RESOLVES:

TO ENCOURAGE all Contracting States, and international, national, as well as private financing institutions, to assist the developing Contracting States by providing them with reasonable discounts or rebates on any exposure rates or similar charges levied by such financing institutions.

## **RESOLUTION 5**

### **RELATING TO THE OFFICIAL COMMENTARY ON THE PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO SPACE ASSETS**

THE DIPLOMATIC CONFERENCE FOR THE ADOPTION OF THE DRAFT PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO SPACE ASSETS (meeting in Berlin from 27 February to 9 March 2012),

HAVING ADOPTED the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets (the Protocol);

MINDFUL of the existing Official Commentaries to, on the one hand, the Convention on International Interests in Mobile Equipment and the Protocol thereto on Matters specific to Aircraft Equipment and, on the other, the Protocol on Matters specific to Railway Rolling Stock, as well as their importance;

RECOGNISING the increasing use of commentaries of this type in the context of modern, technical commercial law instruments;

CONSCIOUS of the need for an official commentary on the Protocol as an aid for those called upon to work with this instrument; and

MINDFUL that the Explanatory Note on the draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets submitted to the Conference (DCME-SP – Doc. 4) provides a sound starting point for the further development of this official commentary;

RESOLVES:

TO REQUEST that:

- (1) the Reporter prepare an official commentary on the Protocol, in close co-operation with the UNIDROIT Secretariat and in co-ordination with the Chairman of the Commission of the Whole, the Chairman of the Final Clauses Committee and the Chairman and members of the Drafting Committee; and
- (2) the Official Commentary be circulated for comment in draft form among the States and observers that participated in the Conference prior to its publication being authorised.