



**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  
Second session  
Rome, 26/28 October 2004**

UNIDROIT 2004  
C.G.E./Space Pr./2/Report  
Original: English

**REPORT**

*(prepared by the UNIDROIT Secretariat)*

**Opening of the session**

1. Mr S. Marchisio (Italy), elected Chairman of the 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 (hereinafter referred to as the *Committee*) at its first session, opened the session at the Headquarters of the Food and Agriculture Organization of the United Nations in Rome at 9.45 a.m. on 26 October 2004. He indicated that, in consideration of the concerns expressed during the discussions held at the first session, the UNIDROIT Secretariat had suggested that at the second session it might be appropriate to focus on certain fundamental policy issues for the practical viability of the preliminary draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets (hereinafter referred to as the *preliminary draft Protocol*) rather than proceed to a second reading of the text. The points on which it was suggested that discussion should concentrate were illustrated in the Explanatory Note to the draft Agenda (C.G.E./Space Pr./2/W.P. 2), appended hereto as *Appendix I*. As a consequence of the Chairman's inability to attend that part of the session held on 28 October 2004 and in the absence of both the First Deputy Chairman and the Second Deputy Chairperson of the Committee, Ms A. Veneziano (Italy), upon a proposal moved by the delegation of the Czech Republic and seconded by the delegations of Canada, Greece and the Russian Federation, was elected temporary Chairperson of the Committee for that part of the session.

2. Mr M.J. Stanford, Deputy Secretary-General *ad interim* of UNIDROIT, was Secretary to the Committee. Ms L. Peters, Research Officer, UNIDROIT, Ms M. Schneider, Research Officer, UNIDROIT, Mr J. Atwood, Research Officer, UNIDROIT, and Ms P. Daubas, Associate Research Officer, UNIDROIT, acted as Assistant Secretaries.

3. The session was attended by 97 representatives of 29 Governments, five intergovernmental Organisations and eight international non-governmental Organisations. The list of participants is appended hereto as *Appendix II*.

**Agenda I item No. 1: Adoption of the Agenda**

4. The draft Agenda (C.G.E./Space Pr./2/W.P. 1) was adopted by the Committee. It is appended hereto as *Appendix III*.

**Agenda Item No. 2: Organisation of work**

5. Mr Stanford illustrated the Order of business (C.G.E./Space Pr./2/O/B) proposed for the session. The Committee adopted the order of business as proposed.

**Agenda Item No. 3: Consideration of key policy issues arising under the preliminary draft Space Protocol (C.G.E./Space Pr./2/W.P. 4)**

6. The adviser of the Space Working Group (S.W.G.) illustrated the work done by that Organisation since the first session and the contacts made by it with satellite operators and financiers. In this context, a colloquium had been organised jointly with UNIDROIT, at the kind invitation of the Malaysian National Space Agency, in Kuala Lumpur on 22 and 23 April 2004.

**A. DEFINITION OF SPACE ASSETS (Article I(2)(g))**

7. Article I(2)(g) identified as space assets:

“(i) any identifiable asset that is intended to be launched and placed in space or that is in space;

(ii) any identifiable asset assembled or manufactured in space;

(iii) any identifiable launch vehicle that is expendable or can be reused to transport persons or goods to and from space; and

(iv) any separately identifiable component forming a part of an asset referred to in the preceding sub-paragraphs or attached to or contained within such asset”.

8. Two delegations questioned the use of the phrase “space assets” instead of “space objects”, which would conform with international space law. The UNIDROIT Secretariat noted that the phrase “space assets” had been used in the Convention on International Interests in Mobile Equipment (hereinafter referred to as the *Convention*) following advice from a number of public international space law experts not to use terminology similar to that of the space treaties. Several delegations noted that the phrase “space assets” would not only cover satellites used for telecommunications but would cover satellites used for any purpose, including satellites used for remote sensing, and would also cover the component parts of satellites, such as transponders.

9. With reference to sub-paragraph (i) of the definition, several delegations suggested that the word “and” be replaced by “or”.

10. One delegation noted, in relation to the phrase “intended to be launched”, that the question whether a satellite was intended to be launched would be difficult to identify.

11. With reference to the use of the word “component” in sub-paragraph (iv), some delegations noted that the concept of “component” was too abstract. One delegation questioned whether that concept would cover transactions such as irrevocable right of use agreements.

12. Several delegations agreed that it would be appropriate for the definition to cover the satellite manufacturing phase. Other delegations had concerns about very small component parts being included within the definition. It was observed that the practicalities of the registration process would address these concerns.

13. Several delegations raised the concern that the definition was based on the possibility of co-ownership of a single asset or component, whereas such a relationship was not recognised in all legal systems.

14. A number of delegations noted that commercial practices included arrangements for co-ownership and co-use of transponders and satellites.

15. The adviser to the UNIDROIT Secretariat noted that it might be necessary for the preliminary draft Protocol to include a rule concerning whether rights in a component would be affected by that component's incorporation into an asset.

16. Some delegations noted that the concept of a component being contained within an asset was not recognised by some legal systems and that this should be taken into consideration.

17. Some delegations noted that, in relation to the connection between Article I(1) and Article I(2)(g), the phrase "except where the context otherwise requires" in Article I(1) could create legal uncertainty as it could be interpreted differently in different jurisdictions and result in inconsistent approaches.

#### **B. "DEBTOR'S RIGHTS" AND "RELATED RIGHTS" (Article I(2)(a) and (f))**

18. The adviser of the S.W.G., introducing C.G.E./Space Pr./2/W.P. 4, noted that it was generally difficult to repossess or to change the function of space assets and that this had led to a recognition of the need for the preliminary draft Protocol to deal with debtor's rights and related rights, which were a very important feature in space asset financing transactions. The paper presented proposals to incorporate these concepts into the preliminary draft Protocol.

19. There was general recognition among delegations of the need for the preliminary draft Protocol to address debtor's rights and related rights, although many delegations noted the need for the proposals to be further examined and for the drafting to be further refined.

20. Some delegations noted that, in relation to registration and assignment of debtor's rights, the preliminary draft Protocol should require that the consent of third parties be obtained. Other delegations stressed that this was a question that should be left to be determined by the applicable law.

21. One delegation questioned whether the definition of "right's assignment" needed to be limited to contracts which were applied by way of security. The adviser of the S.W.G. noted that this issue warranted further consideration; however, the philosophy underlying the proposal was that debtor's rights and related rights should be required to be linked to a space asset and should not be capable of separate registration.

22. A number of different views were expressed on the proposals on related rights. One delegation questioned whether it would be appropriate to permit registration of an international interest in a related right in the absence of consent to that registration by the relevant national, intergovernmental or other international body. It noted that such an approach was reflected in Article XX. Several delegations supported the approach that had been taken in an earlier version of the definition expressly to limit such rights to those which might be transferred or assigned to the extent permissible and assignable under the law concerned. Other delegations, although agreeing that it might be useful expressly to refer to limits on assignment under national law, noted that it was not appropriate for such an operative provision to be included in a definition. Some delegations noted that the issue was adequately addressed by Article II(2), which recognised the supremacy of national law regarding issues of transferability. Other delegations questioned whether Article II(2) provided sufficient recognition of this point. The adviser to the UNIDROIT Secretariat noted that a premise underlying the Convention was that a charge could only be given over a related right to the extent that that right was transferable. However, he suggested that there might be value in considering a separate Article clearly stating that specified provisions would apply to related rights only to the extent that those rights were transferable or already subject to the appropriate consent. Several delegations supported this proposal.

23. In concluding the discussion, the Chairman invited the S.W.G. to revise the working paper in close co-operation with interested Governments and taking into account the policy issues raised and drafting suggestions made in the discussions in order to develop a new proposal for submission to the following session of the Committee.

### **C. IDENTIFICATION OF SPACE ASSETS AND REGISTRY CONSIDERATIONS (Article VII)**

24. Several delegations noted that the preliminary draft Protocol needed to include some identification criteria for space assets, since otherwise the scope of the preliminary draft Protocol itself would be left unclear. One delegation suggested that the adopted text of the Protocol include any criteria that could be identified at the time of adoption, with the possibility that the Supervisory Authority develop further criteria in consultation with a preparatory commission, noting that this model had been followed in the development of the Aircraft Protocol. The adviser to the UNIDROIT Secretariat suggested that it might be appropriate to develop general identification criteria and to reserve to the Supervisory Authority the task of developing identification criteria to be used solely for the purpose of registration. Some delegations expressed concern about the Supervisory Authority being given the capacity to develop criteria that would affect the Convention's application, although other delegations noted that this might be necessary and that they would have no objection if the Supervisory Authority's task were confined to technical and operational matters. Some delegations suggested that identification criteria could include details of the date and place of manufacture, the date of launch and the orbital position. One delegation supported reverting to the previous version of Article VII which had listed identification criteria.

25. The adviser of the S.W.G., at the request of one delegation, provided a further detailed explanation of the mechanics of a typical satellite financing transaction, including financing of the construction and assembly phases. The Chairman requested the S.W.G. to include the explanation provided in the revised C.G.E./Space Pr./2/W.P. 4.

26. The adviser of the S.W.G. from the Airlines Worldwide Telecommunications and Information Services (S.I.T.A.) provided information about practical issues encountered in the setting up of the International Registry under the Aircraft Protocol and suggested that, in order to establish a uniquely identifiable number, the International Registry to be established under the future Space Protocol could incorporate information on assets such as their make, date of launch, orbital position, manufacturer and type and that it would be important to have the flexibility to enable such information to be amended and updated as appropriate.

27. In response to a question from some delegations regarding the global regulation of satellite frequencies and, in particular, the implementation of the Radio Regulations concerning the World Radiocommunication Conference (W.R.C.) 1976 and the 1988 Plan concerning the more equitable allocation between States of satellite frequencies and slots, the observer of the International Telecommunication Union (I.T.U.) explained the operation of its radio regulations and of its registry functions and provided information about the W.R.C. 2000 Plan.

28. Several delegations stressed the importance of having an effective registration and asset identification system.

29. One delegation noted that the International Registry contemplated for the future Space Protocol would be a notice-filing registry, which would minimise administrative costs and would distinguish it from the I.T.U. registration system. The adviser of the S.W.G. noted that another distinction was that the International Registry contemplated under the future Space Protocol would be concerned with the registration of security interests. Several delegations noted that the

number of space assets and of new space assets launched each year would need to be considered in designing the International Registry.

#### **D. LIMITATIONS ON REMEDIES (Article XVI)**

30. The adviser of the S.W.G. introduced the two alternative formulations of Article XVI(3) and noted that the S.W.G. was concerned about the inclusion of this provision because of its potentially negative impact on the availability of credit to States that made declarations and because there were alternative approaches available to protect against interruption in the provision of public services that utilised space assets.

31. One delegation questioned the efficacy of the alternative formulations because they would rely upon a space asset's presence in a jurisdiction and also raised concerns about the effect of either formulation on the existing access by States to low-cost satellite access for public services.

32. The majority of delegations who took the floor noted that the protection of public services from interruption was a matter of critical national importance and supported the first alternative.

33. Other delegations, however, favoured both alternatives remaining on the table. Some of these questioned the need for a provision on this issue at all, on the grounds that protection against the interruption of public services was an existing problem and that solutions currently adopted should be considered, and noted that the inclusion of a provision could curtail or defeat the economic benefits of the preliminary draft Protocol. Others, on the other hand, favoured both alternatives remaining on the table for the reason that they had not yet come to a decision on which of the alternatives they preferred.

34. Several of the delegations favouring the first alternative noted that the making of a declaration under either formulation would be optional so that Contracting States would, in any case, be able to assess the potential impact on credit availability when deciding whether to make a declaration.

35. The adviser to the UNIDROIT Secretariat noted that one possible effect of a Contracting State making a declaration under the proposal might be to impede that Contracting State's ability to negotiate viable solutions with creditors, unless the declaration could allow for agreement between the Contracting State and the creditor to modify the restrictions on the creditor's remedies.

36. The adviser of the S.W.G. noted that in the first alternative formulation of Article XVI(3) the phrase "as specified" did not clarify the nature of the specification that would be required.

37. Several delegations saw a need for greater elaboration of the concept of "public services", whilst other delegations considered that this was a matter that should be determined by national law.

38. Some delegations noted that there were differences between States in their classification of public services and in the delivery of public services by private sector entities.

39. Some delegations suggested that the preliminary draft Protocol should achieve an appropriate balance between creditors' legitimate interests and the interest of States in uninterrupted delivery of public services.

40. Other delegations noted that the preliminary draft Protocol should provide that, where a declaration caused a creditor's access to remedies to be defeated, the relevant Contracting State should be required to assume the contract or to provide compensation at not less than the amount of the debt. Another delegation suggested that in such cases the creditor's rights should be determined by national laws, including national laws on requisitions.

41. In conclusion, the Chairman noted the importance of this issue to the success of the preliminary draft Protocol, and in particular its importance to financiers and States. Following a suggestion by Mr J.H.E. Kronke, Secretary-General of UNIDROIT, the Chairman invited all delegations and the S.W.G. to provide the UNIDROIT Secretariat with additional information on what services were considered to be public services in their countries and an indication of how those services were protected at present, together with any other comments relating to this issue and any written proposals. The Chairman further noted that the UNIDROIT Secretariat would, on the basis of the information received by it from Governments and the S.W.G., prepare a paper for submission to the following session of the Committee.

**E. APPLICATION AND MODIFICATION OF DEFAULT REMEDIES (Articles IX(4), IX bis, X(5) and XVI(2))**

42. With reference to Article IX(4), a number of delegations questioned its effect in relation to the priority rules in situations where there were several registered international interests over both components on a space asset and the space asset itself. One delegation noted that the provision would require further elaboration, whilst another delegation noted that further elaboration would be difficult and that in practice this issue was addressed through inter-creditor arrangements. The adviser to the UNIDROIT Secretariat suggested that Article IX(4) could be relocated, as it did not relate to default remedies and that its relationship with other provisions in the preliminary draft Protocol should be reconsidered carefully.

43. The adviser of the S.W.G. noted that the inclusion of Article IX(4) might not be necessary, as it merely described what would in any event occur in practice.

44. With reference to Article IX bis, one delegation noted that it should be made subject to Article XXVI(2) and that it did not take account of the strictness of national export control regulations, which did not usually accommodate the placement in escrow of information such as satellite command codes. There were two different views as to whether this concern was addressed by Article XVI(2).

45. Several delegations expressed concern about the effect of the exclusion of remedies on third parties who were not privy to the agreement, referred to in the Article, between the creditor and the debtor, with some of these delegations also noting that some of the interim remedies listed in Article 13(2) of the Convention, such as the lease of an asset, could have application in relation to space assets.

46. One delegation noted that Article X(5) would be interpreted in such a way that the exclusion of Article 13(2) of the Convention would only affect the parties to the agreement.

47. One delegation noted that the provision should be deleted as it would interfere with the competence of national courts and it failed to address situations where the debtor's default had been affected by the creditor's actions.

48. One delegation noted that it would be important for the preliminary draft Protocol to address the question of a creditor's right, in the event of a default, to access revenue streams from a space asset pending final determination of the parties' rights. Another delegation characterised this issue as being whether the remedy referred to in Article 8(1)(c) of the Convention should be available on an interim basis. Some delegations indicated that this was a significant issue that should be contained in a written proposal before it could be properly considered. Some delegations questioned the rationale for dealing with the transferability of related rights in connection with interim measures, noting that Article II(2) of the preliminary draft Protocol addressed the application of the Convention and the preliminary draft Protocol to the transfer and assignment of related rights. The adviser to the UNIDROIT Secretariat noted that it might be necessary for the preliminary draft Protocol to address the rights of a transferee of

related rights following the model of Article X(4) of the preliminary draft Protocol. The adviser of the S.W.G indicated that this issue would be addressed, taking into account the comments made, in the revised C.G.E./Space Pr./2/W.P. 4.

**Agenda Item No. 4: Status of the work concerning the international registration system to be established under the future Space Assets Protocol (C.G.E./Space Pr./2/W.P. 2)**

49. The Chairman noted that there had been an open-ended, informal meeting on the evening of 27 October 2004 to discuss issues related to the international registration system.

50. One delegation noted that, in considering the structure of the international registration system, it would be necessary to give careful consideration to the economics of the future International Registry, having regard to the relatively small number of space assets, and further suggested that it might be preferable for the functions of the Supervisory Authority to be conferred on an international commission. Another delegation noted that, if the international registration system was both electronic and well adapted to the needs of its users, it should be able to be operated economically.

51. The Committee decided to establish an open-ended Sub-committee to develop proposals relating to the international registration system. The Sub-committee would be open to participation by all interested delegations, via notification to be given to the UNIDROIT Secretariat, that would act as co-ordinator of the Sub-committee's work. The Sub-committee was to work between the second and third sessions of the Committee via electronic communication. A decision on the Sub-committee's future working methods, and in particular when to convene a first meeting of the Sub-committee, would be taken at the third session of the Committee. It was agreed that the issues to be considered by the Sub-committee between the second and third sessions of the Committee would be, first, the identification of space assets and related matters, secondly, the practical operation of the future International Registry and, thirdly, the role of the Supervisory Authority. The Chairman noted that it would be useful for interested delegations to provide their comments on these issues as soon as possible so as to enable the results of the work of the Sub-committee to be considered by delegations in advance of the following session of the Committee.

52. The observer of the United Nations Office for Outer Space Affairs noted that, at its 2004 session, the Legal Subcommittee of the United Nations Committee on the Peaceful Uses of Outer Space had once again considered the preliminary draft Protocol, both from the angle of the possibility of the United Nations acting as the Supervisory Authority under the preliminary draft Protocol and that of the relationship between the latter and the rights and obligations of States under the legal regimen applicable to outer space. She noted that the Legal Subcommittee had at that session reconvened its Working Group looking at these two questions. Having agreed that a number of both practical and fundamental issues remained to be resolved before the Legal Subcommittee could decide on whether it would be appropriate for the United Nations to act as Supervisory Authority, the Working Group had agreed to establish an open-ended *ad hoc* working group to continue, between the 2004 and 2005 sessions of the Legal Subcommittee, consideration of the appropriateness of the United Nations acting as Supervisory Authority with a view to the preparation of the report, including the text of a draft resolution, to be submitted to the Legal Subcommittee at its 2005 session.

53. The observer of the I.T.U. noted several timing issues associated with the Union's consideration of any possible role as Supervisory Authority, including the fact that the following session of the I.T.U. Council would be held in July 2005 and the possibility of the issue being submitted to the I.T.U. Plenipotentiary Conference, which would be held in 2007 and which would make any final decision regarding any possible role of the Union as Supervisory Authority.

The observer of the I.T.U. noted that the Union would be in a better position to consider the issue when the role of the Supervisory Authority under the preliminary draft Protocol had been finally determined.

54. The observer of the International Mobile Satellite Organization (I.M.S.O.) noted that that Organisation's Assembly had considered the question of amending its Constitution to enable it to consider taking on the role of Supervisory Authority under the preliminary draft Protocol and that, after consideration as to whether the role of Supervisory Authority could be a diversion from that Organisation's core functions and the potential financial impact, had requested that the issue be monitored. The observer of I.M.S.O. noted that the issue would be considered at the following Assembly meeting, due to be held at the end of 2005, and that the outcome of that meeting would be conveyed to the UNIDROIT Secretariat.

55. The observer of the European Space Agency (E.S.A.) noted that E.S.A. had considered the question of acting as Supervisory Authority under the preliminary draft Protocol and had decided that it would preferable to monitor the issue until all outstanding issues had been resolved. The observer of E.S.A. also noted that E.S.A. would be prepared to offer technical assistance to the Sub-committee examining issues relating to the future international registration system.

56. One delegation noted that it would be important to clarify the legal status of the Registrar and the Supervisory Authority and to consider the issue of insurance. It further noted that one economic approach might be to adapt an existing registry such as that operated by the I.T.U., with an international commission acting as the Supervisory Authority. The Chairman noted that consideration of the potential role of existing registries could be included in the terms of reference of the Sub-committee.

#### **Agenda Item No. 5: Future work**

57. Mr Kronke indicated that, based on a target of the second half of 2006 for the convening of a diplomatic Conference for the adoption of a draft Space Protocol, it would be necessary to convene either one long session or two shorter sessions of the Committee during 2005. He suggested that those involved in the inter-sessional work to be carried out with a view to the following session of the Committee should bear in mind the possibility that it might be feasible to convene a one-week session of the Committee in early May 2005.

58. Several delegations noted that it would be critical for inter-sessional work to be undertaken as soon as possible, and in particular for C.G.E./Space Pr./2/W.P. 4 to be reviewed and circulated, with an accompanying explanatory introduction, in sufficient time to enable delegations to review its content in advance of the following session of the Committee. Some delegations indicated a preference for several shorter meetings during 2005. The adviser to the UNIDROIT Secretariat indicated that it would be helpful if the review of C.G.E./Space Pr./2/W.P. 4 could include a basic guide to the operation of satellites and satellite financing.

59. The Chairman invited interested delegations to provide comments and drafting proposals in advance of the following session of the Committee so as to enable those comments and proposals to be considered by all delegations in advance of that session.

#### **Agenda Item No. 6: Review of report**

60. The draft Report was reviewed, with a number of amendments being agreed upon. It was agreed that, after its finalisation by the UNIDROIT Secretariat, it should be approved, on the Committee's behalf, by Mr Marchisio, as Chairman of the Committee, and, as regards the issues discussed on 28 October 2004, by Ms Veneziano, as temporary Chairperson of the Committee on that day.



**Agenda Item No. 7: Any other business**

61. There being no other business, the Chairman declared the session closed at 1.30 p.m. on 28 October 2004.



## APPENDIX I

### EXPLANATORY NOTE TO THE DRAFT AGENDA

1. At its first session, held in Rome from 15 to 19 December 2003, the UNIDROIT Committee of governmental experts for the preparation of a draft Protocol to the Convention on International Interests in Mobile Equipment (hereinafter referred to as the *Convention*) on Matters specific to Space Assets (hereinafter referred to as the *Committee*) made considerable progress in its consideration of the text of the preliminary draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets (hereinafter referred to as the *preliminary draft Protocol*) drawn up, at the invitation of the President of UNIDROIT, by the Space Working Group<sup>1</sup> and authorised for transmission to Governments by the UNIDROIT Governing Council at its 80<sup>th</sup> session, held in Rome from 17 to 19 September 2001 (cf. Report on the session (C.G.E./Space Pr./1/Report/Appendix III)).

2. A number of the issues considered during that session concerned matters of fundamental importance for the practical viability of the end-product of the Committee's work. From the outset of this work, as may be appreciated from the President of UNIDROIT's decision to entrust the preparation of a first draft of the preliminary draft Protocol to the Space Working Group, UNIDROIT has been particularly conscious of the need to ensure that its efforts in this area be judged to be practically viable by the relevant business parties. Without a reasonable modicum of practical viability, it is clear that the prescriptions of the Committee will fall well short of the key objective of the preliminary draft Protocol expressed in the preamble thereto, namely "the need to adapt the Convention to meet the particular demand for and the utility of space assets and the need to finance their acquisition and use as efficiently as possible". And, to that extent, all the best efforts of Governments notwithstanding, any future Space Assets Protocol would be of limited practical use, in particular in the promotion of space financing.

3. In these circumstances, given the quite different perspectives from which the representatives of Government and industry seemed at times to be approaching issues of fundamental importance for the practical viability of the preliminary draft Protocol during the first session of the Committee, the UNIDROIT Secretariat has judged it desirable to use the second session of the Committee, above all, as an opportunity for the representatives of Government and industry to focus on those points of deliberation raising issues of such key importance for the practical viability of the preliminary draft Protocol rather than proceeding to a second reading thereof.

4. For this reason, the Secretariat would propose that the second session of the Committee be principally devoted to in-depth discussion - between, on the one hand, representatives of Government and, on the other, representatives of industry - of precisely such points, with a view to enabling both parties to present their perspectives on the issues involved and thus to achieving mutually satisfactory solutions. Until such matters have been clarified the Secretariat considers that it would not be appropriate to embark on a second reading of the preliminary draft Protocol.

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<sup>1</sup> The Space Working Group is a body established by - but independent of - UNIDROIT representing the interests of the different sectors (manufacturers, operators, financiers and insurers) of the space industry in relation to the preliminary draft Protocol. It was organised, and is co-ordinated by Mr Peter D. Nesgos (Partner, Milbank, Tweed, Hadley & McCloy, New York).

5. The Secretariat would propose that the issues meriting such in-depth discussion at the second session concern *inter alia*, first, the concept of “space assets” as defined in Article 1(2)(g) of the preliminary draft Protocol, secondly, the issues involved in the application of the Convention and the preliminary draft Protocol to “debtor’s rights” and “related rights” under the proposed new Article IV tabled by the Space Working Group at the first session of the Committee (cf. C.G.E./Space Pr./2/W.P.4), thirdly, the question whether the protection granted under Article IX(4) is sufficient or needs extending, especially in order to protect a user of components who is neither in default nor insolvent, fourthly, the question of the desirability under Article IX of providing financial assurances for potential transferees of “related rights” pending the taking of the final decision by the competent regulatory Authority or body regarding the transferability of such rights, fifthly, the question as to whether Article X(5) is needed in the context of space assets and, sixthly, the limitations that may be placed on the exercise of remedies under Article XVI, in particular in respect of space assets used for the establishing or maintaining of public services. The background to these issues may be found in the deliberations of the Committee at its first session as recorded in the Report thereon. This proposed list is not, however, intended to be exhaustive of the issues that may be raised for discussion at the second session. In the Secretariat’s opinion, what is essential at this stage in the negotiating process is to take stock of the choices that lie ahead for the Committee if the end-product of its labours is to justify the objectives heralded in the aforementioned clause of the preamble to the preliminary draft Protocol.

6. It should be noted that it is not envisaged, under the Secretariat’s proposal, that the Drafting Committee will meet during the second session of the Committee, although, depending on the progress achieved during that session, it would of course be open to the Committee to consider inviting the Drafting Committee to meet at a date subsequent to the session with a view to implementing any conclusions that it might reach.

7. Given the ongoing consideration being given in different international fora to the question of the body to act as Supervisory Authority of the international registration system to be established under the future Space Assets Protocol, it should finally be noted that the Secretariat is proposing that time also be found during the second session for an update regarding the situation in this respect.

## APPENDIX II

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

(Second session: Rome, 26 – 28 October 2004)

### FINAL LIST OF PARTICIPANTS

#### MEMBERS \*

ARGENTINA	Mr Jorge IREBA Counsellor Embassy of Argentina in Italy
	Mr Claudio Javier ROZENCWAIG First Secretary Embassy of Argentina in Italy
AUSTRIA	Mr Matthias POTYKA Judge / Adviser Department of International Private Law Federal Ministry of Justice
BRAZIL	Mr Antônio Paulo CACHAPUZ DE MEDEIROS Legal Adviser Ministry of Foreign Affairs
	Mr João André PINTO DIAS LIMA Counsellor Embassy of Brazil in Italy
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BURKINA FASO	Mr Barthélemy YAMEOGO Ministre Conseiller Ambassade du Burkina Faso en Italie

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\* Pursuant to the decision taken by the UNIDROIT Governing Council at its 80<sup>th</sup> session, held in Rome from 17 to 19 September 2001, membership of the Committee is open not only to member States of UNIDROIT but also to member States of the Committee on the Peaceful Uses of Outer Space of the United Nations (U.N./COPUOS)

## CANADA

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*Co-Chairman of the Drafting Committee*

Mr Roderick WOOD  
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## PEOPLE'S REPUBLIC OF CHINA

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**AGENDA**

1. Adoption of the agenda
2. Organisation of work
3. Consideration of key policy issues arising under the preliminary draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets, and in particular Articles I(2)(g), IX, X(5) and XVI (cf. C.G.E. Space Pr./2/W.P. 3) and the Space Working Group's proposed new definitions for inclusion in Article I and additional Article IV (cf. C.G.E. Space Pr./2/W.P. 4)
4. Status of the work concerning the international registration system to be established under the future Space Assets Protocol
5. Future work
6. Review of report
7. Any other business.