



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

**PREPARATORY COMMISSION FOR THE
ESTABLISHMENT OF THE INTERNATIONAL REGISTRY
FOR SPACE ASSETS PURSUANT TO THE SPACE
PROTOCOL**

Third session
Rome, 11-12 September 2014

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SUMMARY REPORT
OF THE THIRD SESSION
(Rome, 11-12 September 2014)

1. The Third session of the Preparatory Commission for the establishment of the International Registry for Space Assets pursuant to the Space Protocol took place at the headquarters of UNIDROIT in Rome on 11 and 12 of September 2014 (for the List of Participants see Annex I to this report).

Item No 1 on the draft agenda – Opening of the session and welcome

2. Participants met at the headquarters of UNIDROIT for the opening of the session by *the UNIDROIT Secretary-General*.

3. Acting as provisional Chairman *the Secretary-General* welcomed the delegations and the observers and thanked them for having positively responded to the invitation to participate in the work of the third session of the Preparatory Commission. He informed the Commission that the observer representing SES had announced via email that she was unexpectedly unable to attend but would be ready to provide information in the event that there were any questions during the meeting related to the satellite operators.

Item No 2 Adoption of the agenda and organisation of the business of the session (Prep.Comm.Space/2/Doc.1 rev.)

4. Prof Sergio Marchisio (Italy) was reappointed Chairman of the session.

5. The agenda sent out with the invitation was adopted (see Annex II to the present report).

Item No. 3 on the agenda – Consideration of the Explanatory Note to the revised draft Space Regulations prepared by Prof Roy Goode (Prep.Comm.Space/3/Doc.2 and Doc.3)

6. *The Chairman* opened the discussion on Item No. 3 of the agenda, drawing the delegates' attention to Document No. 2, the Explanatory Note on Draft Space Registry Regulations as revised August 2014. *The Chairman* invited Sir Roy Goode to introduce the above-mentioned document.

7. *Sir Roy Goode* first expressed his thanks to the members of the Preparatory Commission that had commented on the revised drafts sent for consultation (a table of comments organised according to section of the draft Regulations had been prepared by the UNIDROIT Secretariat as Document No. 5). He further expressed his gratitude to Mr. Cowan, for making his extensive experience available. The revised version of August took all of this input into account, as well as additional insights by SES representatives whom he met in Luxembourg, but further comments had since been received by member States and an observer (reproduced in Documents No. 6, 8, 9 and 10).

8. Sir Roy Goode further drew the delegates' attention to another document that had been prepared by the Secretariat of UNIDROIT, a comparison between the June and August draft texts against the draft text of December 2013 (Document No. 4).

9. Sir Roy Goode then proceeded to summarise the points that he believed had been agreed. Firstly, registration was to be confined to spacecraft, payload or parts of payload, as provided for now in Section 3.1 *bis* of the draft Regulations. He supported the reformulation suggestion made by one delegation to express what was now in the negative (what could not be registered) into the positive (what could be registered), with a slight amendment.

10. Secondly, it had been agreed that, in case of a pre-launch registration, the manufacturer's name and contract reference number should normally suffice, whereas it remained for final consideration whether or not the manufacturer's serial number and model designation should be added to a registration of a payload or part of payload. One observer had suggested that it may be necessary to retain the ability of the registrar to allocate a unique serial number in case a contract not only covered the part but also the ancillary services.

11. A third point on which Sir Roy Goode believed that consensus had been reached was that there was to be no compulsory registration post-launch of an interest that had already been registered pre-launch.

12. Sir Roy Goode then summarised the points that were unlikely to be controversial. The first point raised was the proposal by Mr. Cowan to expand the definition of registered information under Section 2.1.13, so as to enable a creditor's notice under Article XXVII (4) of the Protocol on the exercise of remedies where a public interest restriction applies so as to allow them to show on a priority search.

13. A second point which was unlikely to be controversial was the insertion of a definition of State of registry under Section 2.1.17, similarly to the Aircraft protocol.

14. Thirdly, the abandonment of the requirement to state the general nature of a payload or part of a payload also appeared to be close to a consensus in favour, though perhaps not of unanimity.

15. Fourthly, one delegation had made a proposal to reformulate Section 4.1 *bis*, which only required a slight modification.

16. Sir Roy Goode then proceeded in his summarisation of points that remained to be discussed. The first point that remained to be settled was whether the manufacturer's serial number and model designation should be added to the identification criteria. One observer from the industry had expressed the opinion that as far as the entire spacecraft is concerned they saw no merit in a serial number, and that there was not any particular use for a model designation. However, given that there were still Preparatory Commission members in favour of that approach, this remained to be discussed.

17. Secondly, there had been suggestions in favour of additional requirements to the information requirements under Section 5. Sir Roy Goode suggested that Mr. Cowan could offer a helpful view in this regard on the practical operation of the registry.

18. A third issue to be settled was whether or not, in Section 3.1 *ter*, which deals with payload or part of a payload, there should be a requirement that they should be separately financed. One delegation had expressed a preference for "separately financed" to be dropped, whereas another had suggested deleting "separately" but leaving "financed".

19. A fourth issue to be considered was a proposal to have unique identification for parts of payload that were not in space but on Earth. Sir Roy Goode pointed out that that issue had been addressed partly in Sections 5.3 *bis* and 5.3 *ter* of the draft Regulations.

20. The fifth point subject to discussion was the provision for registration of details of physically linked assets. The underlying suggestion was to enable a creditor taking an interest in asset A to, via a search, learn if there was another interest ahead of him in a linked asset B, and therefore whether or not he would benefit from the restriction under Article XVII (3) of the Space Protocol.

21. The sixth and final point that Sir Roy Goode stated was subject to discussion was the problem of registration of new data where a payload or part of a payload was transferred to another spacecraft. One delegation proposed to provide for continuous updating where payload was transferred to another space asset, which solution would need to be considered.

22. *The Chairman* thanked Sir Roy Goode and opened the floor for discussion.

23. One delegation added registration of transponders as a further topic to be discussed. *Sir Roy Goode* acknowledged that, as technology progressed, certain categories, such as transponders, were becoming less and less physical, e.g. some communication channels did not even require a transponder. The rationale followed in the last session of the Preparatory Commission was to use bankability as a criterion, though not expressly mentioning this criterion. One needed to define what kinds of parts of payloads would attract international interests, and provide identification criteria for each of them. In response, one delegation argued that they were aware of instances of joint financing

of transponders, given that many industry players were small to medium businesses that were not capable of financing the whole satellite on their own, but that this topic should be discussed when addressing the the point concerning the use of the term “separately financed” or simply “financed”.

24. *The Chairman* invited the Commission to proceed more systematically with the discussion, using the comparative table prepared by the Secretariat of UNIDROIT, so as to assess agreement with the revised text.

25. He referred the delegates to Document No. 3 and in particular Section 2.1.13 “Registered information”. The delegations participating in the discussion expressed no objection against the proposed changes.

26. The Chairman then drew the delegates’ attention to Section 3.1 – *bis*. One delegation suggested for the provision to be revised in the light of practical considerations, namely the fact that it did not account for existing assets that fell out of the definition “payload or part of payload”, such as spacecraft as a whole or part of spacecraft. Upon *Sir Roy Goode’s* clarification that it had always been possible to register interests against spacecraft as a whole, it was suggested that there were instances such as space modules that were both independent space assets and parts of a spacecraft. This point was met with the response that the real question would be the definition of “separately financed” assets. These considerations found general consensus. Having identified this point of agreement, the *Chairman* acknowledged the change of text with the addition of “spacecraft and part of spacecraft”.

27. *The Chairman* moved to considering Section 3.1 *ter*, acknowledging one delegation’s support for the new formulation as well as a number of comments by other members and observers. One delegation intervened with a proposal to define categories of parts that could be separately financed and, at later stages, add possible additional categories, provided they met that criteria according to feedback from the market. This suggestion met with approval, subject to the need to have a clear text to avoid problems with interpretation in the future. It was further observed that the regulations could be modified as the industry and the registry itself evolved, as had happened with the Aircraft Registry. This was confirmed by *Mr. Cowan* who suggested that a slightly different approval mechanism than the one generally employed for the Regulations as a whole could apply to the addition of categories: any changes to categories could be submitted to a group of experts, who would advise as to market practice. The *representative of ITU* suggested to include specific language relating to the future update of the Regulations on this point in Section 3.1 *ter*, adding only “spacecraft and parts of spacecraft” in Section 3.1 *bis*. This led to the issue of whether Section 3.1. *ter* should be kept in its present formulation, kept with modifications or deleted (with the provision regarding the future update of registrable categories to be put elsewhere). After a thorough exchange of views a provisional consensus was reached that a list containing each registrable category known at present should be drawn, adding to each its specific identification criteria - these latter subject to further research – whilst the general criteria now contained in Section 3.1. should be retained as guidance for the development of the list and inclusion of future registrable categories.

28. *The Chairman* proceeded to draw the Commission’s attention to Sections 5.3 *bis* and 5.3 *ter*, referring to the comments submitted by several members of the Commission concerning information required to effect registration. The suggestion previously made by one delegation to include spacecraft that was part of spacecraft was met with favour. Concerning the new text of Section 5.3 *bis*, a) and b), one observer pointed out that previous contacts with the industry had revealed that contract reference numbers did not always exclusively refer to a part, but also sometimes included ancillary services, therefore suggesting that the registrar should be able to allocate a unique number in such cases. One delegation objected to there being no reference to the generic name of the asset, a criterion that had been deleted. A discussion ensued on the identification criteria to be assigned to each category, with one delegation drawing the audience’s attention to the last part of its proposal, which provided a model for the information required for registration.

29. The session resumed with *the Chairman's* consideration that Section 5.3 was strictly linked to Section 3.1. He advised the audience that, after conclusion of the plenary, an informal meeting of a group of all interested delegations together with the Chairman, Sir Roy Goode and the Deputy Secretary-General of UNIDROIT would meet to discuss these issues to provide a direction for the rest of the session. A brief discussion was however held regarding the suggestion to retain the manufacturer's model designation as additional criterion for the identification of space assets. In the light of the favourable position of two delegations at least as regarded parts of spacecraft, it was agreed that this issue would be considered at the informal group's meeting scheduled for the late afternoon.

30. The discussion moved to the model format for the registry proposed by one delegation. *Mr. Cowan* expressed concern that, based on the extensive experience with the Aircraft registry, such a model would not only be unnecessary but also incompatible with the architecture of the website. The proposing delegation specified that the model intended to ensure that the output of the registry (i.e. the search criteria under Section 7) mirrored the input (i.e. the registration criteria under Section 5). *Mr. Cowan* explained that Section 7 actually provided a description of search criteria based on the notice-based system rationale. He also added that, for the Aircraft registry, not all registered information was shown in search results. There were essentially two types of search: one being informational for which the Registrar had no liability, and the other a priority search, each returning different types of information. He also explained that physically linked assets were not addressed in the Aircraft Protocol as it was not legally necessary, whereas the situation would be different for the Space Protocol.

31. Addressing the specific point of physically linked assets, the discussion continued with one delegation noting that registration with respect to a payload or part of a payload implied also the identification of the spacecraft in the current version of Section 5.3 *ter*. This would mean that a search regarding a part would return the information on the spacecraft as a linked asset. However the issue to bear in mind was that the registry could not account for whatever was attached at any given moment, if the information had not been inserted in the registry. A provisional agreement was reached among several delegations to provide for language to be inserted in the registry concerning linked assets, to the effect that the reported information that was accurate at the time of entry however may no longer be accurate. These considerations were followed by a remark from one delegation saying that Section 7 would have to be discussed in the afternoon splinter meeting suggested earlier.

32. *The Chairman* thus adjourned the session.

33. The session re-opened at 9:30 of the following morning with an illustration of the results of the splinter meeting that had taken place during the afternoon and evening of the previous day, delivered by *Sir Roy Goode*, the main point of which was that the text could be greatly simplified.

34. The first suggested change was introduced in Section 2.1.17 – State of Registry – now modified to refer to the relevant sections that pertained to the definition.

35. The second suggested change pertained to Section 3.1 *bis*, where, following on the decision of the Commission, the wording had been changed to include only "spacecraft" followed by "any other asset included in Annex 1" (for the time being this only included transponders).

36. A third suggested change concerned Section 5.3 c), which had been simplified into one section dealing with identification information. Again, the procedure differed between spacecraft and any other space asset: in the first case the identification criterion was the manufacturer's contract number, in all other cases the identification criteria were to be determined according to the Annex.

37. According to suggested Section 7.1 searches were to be performed against manufacturers' model or contract number for spacecraft, and against the criteria listed in Annex 1 for all other space assets.

38. Finally, the Annex, subject to further review upon consultation with the industry, provided details for the only other space asset identified thus far, i.e. transponders, as well as criteria for the inclusion of other assets.

39. *The Chairman* thanked *Sir Roy Goode* for the report of the results and asked the Commission for comments on the new draft.

40. The new version of Section 2.15 was approved by the Commission.

41. Regarding new Section 3.1 *bis*, one observer expressed concern that the scope of registration would be reduced to whatever the more established industry would decide, and wondered if this was in line with the underlying purpose of the Protocol. Another delegate considered that, although the new version presented was very clear, the one point that was missing was the list of general criteria that were present in the original version. The delegate therefore proposed to introduce the criteria either in Section 3.1 *ter* or in Annex 1 so as to provide guidance to the future expert committee who would be responsible for the expansion of the list. This suggestion met with approval, subject to a decision on where such general criteria should be placed (i.e. retaining them in Section 3.1 *ter*, including them in Annex 1 or drafting a provision dealing specifically with future changes).

42. *Sir Roy Goode* explained the importance of submitting the draft Annex 1 to the industry, being this a highly technical area. He suggested to add (with or without square brackets) the categories that had been referred to during the previous comments, as well as the re-instated criteria as suggested, so that the outside experts would be able to express their views. Concerning the comment regarding spacecraft as part of another spacecraft, it was suggested to place examples of such assets in brackets, so that the industry experts would know that they were included. *The Chairman*, in light of the general agreement, suggested to leave the text under Section 3.1 *bis* as it was, and work on the Annex at a later stage of the deliberations. Another point to discuss was whether and where to insert the revision procedure as well as the general criteria for such revision. *Sir Roy Goode* mentioned that it was only the Supervisory Authority who could change the Regulations, so that it would be up to them to provide for a simplified procedure to add elements to the list. A number of participants supported however the proposal to insert guidelines for future categories in the text of the Annex. *The Chairman* stated that after this discussion Section 3.1 *bis* could be deemed agreed.

43. *The Chairman* proceeded to consider Section 5 c), concerning identification information, asking for any comments to the new language. One delegation intervened to comment that when one contract covered several space assets, such as a constellation of satellites, the reference to the serial number of the manufacturer and the model designation could be important to univocally identify the space asset. *Sir Roy Goode* addressed this point suggesting that a secured creditor, having searched the Registry, would then use ordinary business mechanisms to obtain particular information on the single assets covered by the contract. Another delegation believed that a contract identification number would be sufficient to query the database in most cases, and that there should be caution in making the model designation mandatory to address such a particular case as a constellation of satellites. However this was met with the comment that contracts that cover several space assets were becoming more and more frequent, and that the name and number assigned by the manufacturer should be added in brackets as criteria. A practical solution for any changes that could affect the name in future would be that any changes be communicated to the registry. *Mr. Cowan* stated that inserting the model designation as a criterion if available would seem like a good solution for the particular case of contracts covering several assets but this should be subject to obtaining industry's view on the issue.

44. Another argument that emerged during the discussion regarded the unique number assignment implemented in the Rail Protocol. As *the delegate representing SITA* explained the unique serial number mechanism assigned by the registrar provided some form of guarantee of identification of an asset in an industry such as the one for Railway Rolling Stock, given that there was no uniqueness of a serial number. Another delegation suggested that the general nature of the space

asset (satellite, transponder, etc.) should be mentioned. According to *Mr. Cowan* the indication of the type of satellite or transponder would not be necessary.

45. When deliberations resumed after the break, *the Chairman* summarized the options that had emerged during informal discussions. One was to add language to Section 5.3 c) in square brackets to include additional criteria, another was to go through a quick consultation process with relevant parties sending out a question regarding whether a third identification criterion would be needed not only for cases of multiple space assets under one contract but also for other cases. *The Chairman* also recalled that this would not be the only point subject to industry consultation; there would also be the Annex.

46. One delegation expressed concern on whether or not the issue of physically linked assets had been addressed as a whole in the new draft of the Regulations, not only in the Annex under a particular category. *Sir Roy Goode* agreed that such a formulation should be extended to all categories to be added at a later date, at which point a delegate suggested that this also be added as a general guideline for future additions.

47. *Sir Roy Goode* brought forward a wording suggested by one delegation providing for two questions: one regarding the need to register names (generic model designation) assigned to spacecraft, and one regarding the frequency of one contract covering more than one spacecraft on the market. *Sir Roy Goode* opened the proposal to discussion and to any additional questions of the floor. The delegation that provided the wording added that the questions should be clarified providing context of the type of registry and the notice-based system. Another delegation suggested that the consultation be addressed to all sorts of industry members in all sectors as that affected the response, and that clarification was required on contract numbers and how they were linked to the space assets. *Sir Roy Goode* explained that under one contract the manufacturer could allocate the interests among the different space assets, which left the delegate posing the question of how this solution differed from assigning a manufacturing number.

48. *The Deputy Secretary-General* addressed the Commission asking if it would agree to a re-drafting of Annex 1 to contain the requirement that in the case of parts of spacecraft the identification criteria for the spacecraft to which the part was linked be registered together with the additional identification criteria for the part. The Commission expressed its agreement. The Deputy Secretary-General further asked whether there was agreement for the proposal of re-wording of the Annex subject to consultation and what would be the deadline for the collection of information, suggesting that less than six weeks would not be reasonable. In order to establish the addressees she suggested either informal consultations via email with the Preparatory Commission members and observers or a workshop as alternative method to collect information. One observer stated that there would be four sectors of addressees in commercial terms: communication and broadcasting satellites; remote sensing satellites; positioning satellites – GNSS (mostly PPPs); and man-transport systems. Other than that, the consultations needed to include operators, manufacturers and financiers.

49. *The Chairman* therefore recapitulated the issues that were to be put to the consultation process: the two questions regarding the opportunity for additional identification criteria for spacecraft and the Annex. He then invited the delegation that had suggested to maintain language for linked assets to provide a suggested wording. The delegation in question suggested to keep the first sentence as it was, and then to add reference to linked assets. This language was to be followed with a paragraph of guidelines (the three criteria already existing in Section 3.1 *ter* present version) for the addition of future categories. *Mr. Cowan* discussed the issue of linked assets in terms of drafting, suggesting a separate section of 5.3 to require that all assets linked to the subject of registration be provided upon registration, using the identification criteria provided in the Annex. This proposal was deemed an improvement by the delegation that had raised the issue of the identification of physically linked assets. *Sir Roy Goode* observed that the requirement to provide identification for linked assets was already present for transponders in the current version of the Annex and could apply to all additional categories. His concern was to avoid a compulsory registration

of such information when the information was not available to the registering party. Creditors for one batch of transponders would not necessarily have information on all linked asset. This approach was approved in principle and the discussion that ensued concluded that Sir Roy Goode was to draft additional language to be included in the search provision (Section 7), concerning the required output of an informational search, but also in the Annex (as general requirement and not only specifically referring to transponders). The draft would also possibly make a change in Section 5 (registration), however the general intent was to avoid imposing a duty to provide information on parties that would not necessarily have such information.

50. Concerning the validity of the Annex as a part of the Regulations for amendment purposes, one delegation suggested adding wording to Section 17 and 18 of the Regulations.

51. *The Chairman* took the remaining time available to consider point 4 of the agenda, inviting the *representative of ITU* to take the floor. The latter announced that ITU members of the session of Council 2014 had expressed their favour towards considering the possibility of ITU becoming the Supervisory Authority of the Space Protocol, and that this was significant given that the ITU had always expressed an interest in the activities of the Preparatory Commission but some members had been questioning this approach. Several questions had been raised during the past Council meeting that had been met with answers by the ITU Secretariat, with the help of an explanatory document drafted by the UNIDROIT Secretariat. The representative announced a forthcoming Plenipotentiary Conference from 20 October to 7 November 2014, in which the ITU was to report on all activities of the Preparatory Commission and request appropriate action from the Conference, i.e. to acknowledge the favour of membership towards ITU becoming Supervisory Authority, to authorize the ITU Secretary-General to continue expressing interest in ITU becoming the Supervisory Authority and for the Council to be authorised to decide as to whether or not ITU accepts to become this Authority without having to wait for the next Plenipotentiary Conference in 2018, provided that all necessary requirements and formalities (i.e. entry into force of the Protocol, pending issues completed and an official request from UNIDROIT) were met. *The Chairman* welcomed this development and hoped that the future steps would be as successful as this one. *The Deputy Secretary-General* thanked ITU for this Report of the last Council, taking the opportunity to ask the members of the Preparatory Commission to consult with their own Governments on this matter.

52. The meeting was adjourned.

53. *Mr. Schmidt-Tedd*, as Chairman of Working Group II on a Request for Proposals, was appointed Chairman of the session in substitution of Prof Marchisio, and re-opened the session at 2pm. Before inviting the representative of BHO, as member of the Working Group II, to introduce the topic to be discussed under point 5 of the Agenda, he suggested that another meeting of the Preparatory Commission would be necessary to conclude the approval of the draft Regulations, as well as the issue of the Request for Proposals, but given the high level of cooperation and problem-solving skills within the Preparatory Commission it would not be necessary to reconvene a physical meeting in order to complete the proceedings. Two delegations expressed their preference for avoiding a physical meeting if the consultation with the industry met with success.

54. At this point, the *representative of SITA*, being an interested party, withdrew from the discussion. *The Chairman* referred to Document No. 7, entitled "Draft invitation to participate in the solicitations for the international registry for space assets". The draft was based on the precedent used for the selection of the Rail Registrar, a model which was then adapted to conform with EU standards. He invited the representative of BHO to provide an overview, suggesting that afterwards the Commission could deliberate on the need to hold formal or informal selection procedures, and thirdly they could address the text of the invitation.

55. In the introductory overview of the document, *the representative of BHO* noted that the documents drafted for the implementation of the Luxembourg Protocol had been used as a template, but it was also deemed useful to refer to the procedural rules of the UN given the possibility of ITU being involved as a Supervisory Authority, to ensure conformity of wording and expressions. A further

addition concerning data security and storage could benefit from comments from Mr. Cowan. The objectivity of the procedure was crucial as full transparency was required under the Space Protocol, and it was suggested that the procedure be a competitive tender. At the same time, the procedure must be effective and efficient and follow Public Procurement procedure practice.

56. The Document was divided into 5 sections: Introduction and explanation of the background and desired outcome; Technical requirements, which had to be general at this point in time, subject to review following selection of best preliminary offer; Cost specification (closely modeled on previous Protocols); Key contract provisions to serve as guidelines for the candidates, and for which the contractual elements were flexible insofar as they were not in conflict with the Regulations; and finally, the negotiation process, for which explanation would be provided in further detail. The Annexes present were reproduced from the experience of the Luxembourg Protocol, as well as new ones that had been added.

57. The procurement process was then described, beginning with the publication of an invitation to raise interest of potential registrars requesting preliminary offers. This would be followed by an assessment of feedback in terms of compliance and cost-effectiveness. The company would then be selected and continue negotiations reserving the right to revert to other candidates and maintaining a competitive structure. A final contract would be drafted and submitted to the Preparatory Commission for adoption. There were some specific details such as whether or not registration fees alone would cover the Registrar's costs and whether or not the selection of the registrar could be aligned with the entry into force of the Protocol.

58. In the ensuing discussion, different opinions were expressed on whether a formal competitive tender should be preferred over direct negotiations with a viable candidate. According to one view, the competitive tender would be recommended both because otherwise European States would be in breach of EU law and because it would be fair to follow the same process that was followed for the other Protocols, that was to be considered as good international practice. This argument was countered by the fact that EU procurement law did not apply to international organizations and UNIDROIT would in any event be at liberty to create its own procurement rules. The *ITU representative* added that whilst the document had been submitted to their legal team for consideration, ITU would accept any approach decided by the Preparatory Commission (acting as Supervisory Authority until ITU may formally accept this role). Other participants objected that a competitive tender was likely to produce very few candidates, so that it might result in a merely formal exercise as well as in delay in the process of implementation of the Registry. Direct negotiations with a viable candidate such as SITA would be more productive. Practice with the previous Protocols was also not conclusive given that the results in the two instances had been very different. A number of delegates noted that an objective procedure was explicitly mentioned in Resolution No. 1 of the 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, so that they would prefer a structured approach, though this needed not be in the form of a competitive bid.

59. *The Secretary-General* noted that, in relation to the Rail Protocol, given that both OTIF and UNIDROIT were relatively small organisations that were not subject to the rather rigid procurement rules of larger organisations, such as the European Union and the United Nations and its specialized agencies, including the ITU. He noted, nevertheless, that even in the case of the latter group, the relevant Financial Regulations, Rules and Procurement Manuals provided for various procedures, each with different levels of formality. For example, it was common for most of those organisations to waive the requirement of competitive bidding when upon certification by the competent authority that competition was unlikely to lead to a timely and cost-efficient result, and that direct negotiations (also known as "single source procurement") might instead in the best interest of the organisations. Whilst a notice to invite expressions of interest with a more detailed set of requirements could be useful for the bidding party, a rigid procedure would be counterproductive. He concluded suggesting

that a compromise could be reached on the procedure, however it was important to determine the substantive criteria that candidates had to meet.

60. The simplified process suggested by the Secretary-General was met with general favour. One delegation proposed that the first invitation be limited to providing a general explanation of the objectives of the registry and its legal framework, leaving it up to the responding companies to provide technical specifications, given that there would probably be a significant evolution in technology. *The Secretary-General* intervened to note that the technical specifications and contract model would probably not differ considerably from the example of the Rail Protocol. The UN rules allowed for a simplified procedure according to which the decision on whether to adopt a competitive bid or not would be taken only after receiving feedback from the market players. Any time spent on drafting a formal RFP procedure would however not be wasted because it could become necessary if three or more candidates responded to the notice. As to the timeframe, *the Chairman* suggested that it not be linked to the ITU procedure but for publication of the notice and relevant documentation to be accomplished during the first half of next year. The UNIDROIT Secretariat agreed to check whether the Rail Preparatory Commission would be in a position to disclose the Rail Contracts Documentation for the benefit of the Space Preparatory Commission only.

61. *The Chairman* further suggested that, during the exchanges that were to take place regarding the Regulations (which held a priority at this point), thoughts could also be exchanged as to the time table and method for the simplified selection procedure. The Commission expressed its approval.

62. In the absence of any other business, *the Chairman* invited the Secretary-General to express any closing remarks. *The Secretary-General* recapitulated the future steps to be taken: a) the revised draft of the Regulations would be circulated to the Preparatory Commission and the industry (including the questionnaire on the identification criteria), and it was envisaged that this was to be an entirely remote procedure. However a physical meeting could be planned around the time of the General Assembly if necessary; b) The UNIDROIT Secretariat would check for authorisation to disclose the draft contracts for the Registrar of the Rail Registry and then circulate a copy to all members of the Space Preparatory Commission; c) Documentation for the announcement of the procurement process should be ready by mid-2015 and at that time the appropriate timeframe to publish the invitation for expressions of interest would be set. To this *the Chairman* added that it would be appropriate to show the results of the consultation process on the Regulations in time to be presented at the Legal Subcommittee OOSA that would take place in Spring 2015. The session was closed at 3:25 pm of Friday, 12 September 2014.

ANNEX I**LIST OF PARTICIPANTS****STATES**

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ANNEX II

AGENDA

1. Opening of the session and welcome by the UNIDROIT Secretary-General
2. Adoption of the agenda and organisation of the business of the session
3. Consideration of the Explanatory Note to the revised draft Space Regulations and of the open issues of the revised draft Space Regulations prepared by Prof. Sir Roy Goode (Prep. Comm. Space/3/Doc. 2 and Doc. 3)
4. Consideration of matters relating to the appointment of a Supervisory Authority
5. Draft invitation to participate in the solicitations for the international registry for space assets (Prep. Comm. Space/3/Doc. 7)
6. Time-table and planning of further work
7. Any other business
8. Closing of the session.