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## **DIPLOMATIC CONFERENCE TO ADOPT A MOBILE EQUIPMENT CONVENTION AND AN AIRCRAFT PROTOCOL**

(Cape Town, 29 October to 16 November 2001)

(Presented by the Space Working Group)

Since 1997 we have made a concerted effort to work with UNIDROIT to create a global set of uniform legal standards that would apply to the financing of space assets.

We underscore the urgent need to create a common set of legal standards within which space assets can be financed.

Forty years ago satellite technology was the exclusive domain of governments. The migration of that technology from governments to the commercial sector began in the 1970's and has proceeded at such a rapid pace that today over 60% of the assets now deployed in space are for commercial purposes. This medium of communications has become so ingrained in our daily lives that it is easy to overlook just how dependent the world has become on satellites. Television and radio broadcasts are now delivered to areas of the world previously lacking access. Who would question the changes brought about by the deluge of information now freely available around the world on the internet? Consider how commonplace it is for all of us to use wireless phones, pagers and e-mail. Add to this list weather forecasting, multispectral imagery and global positioning technology. And consider the benefits of telemedicine: a rural doctor unable to interpret a patient's x-ray or diagnose an illness can now have the capability to transmit that x-ray to a university specialist half way around the world.

But these benefits are not available to all people. Much of the world lacks access to the technological advances we have just listed. The information highway does not pass by everyone's home. Voice communication is not easily accessible to all. The advances in medicine are not available to everyone. It is an all-too-familiar story of a widening gap: the industrialized nations are rapidly increasing their rate of technological absorption, but the less developed parts of our planet are doing so at a much slower pace.

Satellites are an ideal means for narrowing the information gap between the "haves" and "have-nots." One geosynchronous satellite can bring information to literally hundreds of millions of people. But satellites are not free. A typical geosynchronous satellite costs \$250mm. Three decades ago the sources of those funds were governments. But governments are no longer in a position to sponsor the systems that can manage and distribute the vast amount of information now available. Nor are governments well suited to develop new applications for better use of information. Privately

owned companies have risen to address these needs, and the cost for doing so continues to decline. But these companies are largely focused on industrialized countries where the markets are larger and where their financial interests are protected by well-developed legal systems. Countries with unclear legal systems do not attract the global financial resources necessary to build the communications systems that would most benefit their people.

The trillions of dollars that flow through the capital markets everyday are constantly searching for opportunities that maximize returns and minimize risk. One of the key risks that investors continually evaluate is the adequacy of legal protection. The need to create trust in judicial systems has never been greater than it is today. The bedrock of asset-based satellite financing is a lender's belief that his interests will be protected. The lender needs to have "legal transparency" and "certainty of fairness" – the knowledge that a body of law exists and that a judicial system will apply that body of law in a fair manner. Those conditions are not uniformly available throughout the world. Capital flows to where it will be safe and where disputes between a lender and a borrower can be fairly resolved in a court of law. UNIDROIT and its Space Working Group have been working for the past four years to develop a globally uniform set of legal standards which, if adopted by governments, will allow capital to more easily flow to regions of the world that do not fully enjoy the vast benefits of satellite technology.

Because space has no national boundaries, the conduct of human activity in space has largely been the responsibility of the United Nations. Through decades of work the United Nations has developed a body of space treaties and principles that guide the relationships between nation states. These treaties have proven to be very effective in ensuring the peaceful and equitable sharing of responsibilities among all governments.

But the rapid development of commercial technologies that utilize the environment of space now require the creation of new legal procedures which go beyond existing treaties to ensure that all people can equally benefit from that technology. These new commercial principles will act in concert with existing international treaties, and will also be effective in addressing the requirements of the global capital markets. That is why the UNIDROIT Space Working Group exists, and it is the underlying purpose behind the draft Protocol that has been distributed at this conference.

UNIDROIT and the Space Working Group are presenting themselves at this conference to respectfully request that as you consider the merits of the Convention On International Interests In Mobile Equipment and the associated Aircraft Protocol, that you also consider the Protocol on Space Assets in the same light.

Space is a distant, foreign and inhospitable environment. The satellites that go into this environment are truly marvels of human engineering that can bring significant benefits to every person on this planet. To accomplish that task will require a common set of legal standards. We ask for your help, advice and comments to achieve that goal.

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