



INTERNATIONAL CIVIL AVIATION ORGANIZATION

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ASSEMBLY — 35TH SESSION

LEGAL COMMISSION

**DRAFT TEXT FOR THE REPORT
ON
AGENDA ITEM 33**

The attached material on Agenda Item 33 is submitted for consideration by the Legal Commission.

Agenda Item 33: International interests in mobile equipment (aircraft equipment)

33:1 The Commission discussed this item on the basis of WP/16 containing a progress report on international interests in mobile equipment (aircraft equipment), presented by the Council, and WP/117, presented by the Latin American Association of Air and Space Law (ALADA).

33:2 The Delegation of Ireland expressed its satisfaction with the progress made in the contractual negotiations between Aviareto and ICAO and in the implementation of the International Registry, and stated that its government is very supportive of the establishment of the Registry in its territory. Ireland has already enacted the necessary legislation with a view to ratifying the Cape Town Convention and Protocol in the near future.

33:3 One delegation recalled that its State had already become a Party to the Convention and the Protocol and encouraged other States to do so. Five other delegations also encouraged States to ratify the Convention and the Protocol. One observer organization informed that it had produced a paper jointly with another observer organization to be presented to the Legal Commission on this item, but it had not yet been distributed. In such paper, States were encouraged to ratify the Convention and the Protocol.

33:4 Another observer organization considered that the Convention and the Protocol are likely to raise legal difficulties in South American jurisdictions, although consideration of economic nature may prevail in making decisions regarding the ratification of the Cape Town instruments. The opt-in/opt-out provisions of the Convention and the Protocol would facilitate States to overcome such legal difficulties.

33:5 One delegation recalled the active participation of its State in the work leading to the adoption of the Cape Town instruments and on the on-going work of the Preparatory Commission for the International Registry. Its State had organized two seminars in consultation with ICAO and UNIDROIT, the first on the then draft Convention and Protocol; and the second on the International Registry and ratification of the Convention and Protocol. The materials of such seminars may be provided for assistance to other States if they so wish. Two delegations expressed appreciation for such materials being made available to other States.

33:6 One delegation recalled that its State had launched in 1988 the concept of international interests in mobile equipment and had ever since supported the implementation of such concept by treaty law, considering the benefits that can derive therefrom for both developing and developed States. Its State had signed the Convention and the Protocol and is introducing legislation with a view to implementing the Cape Town instruments. The delegation noted the progress made by ICAO and the Preparatory Commission for the International Registry in their work towards the establishment of the Registry, and expressed confidence that the Registry would be established fully in line with the applicable provisions of the Cape Town instruments and Resolution No. 2 of the Cape Town Diplomatic Conference, which were designed to ensure confidence in the International Registry and ratifiability of the Convention and the Protocol. There should be no dilution of the institutional role of the Supervisory Authority.

33:7 One delegation commended ICAO and UNIDROIT for their work in the context of the Cape Town instruments and informed that its State has been taking the necessary steps to ratify them. These instruments were also the result of cooperation between States and the industry, and would promote availability of credit at lower cost, thereby contributing also to better safety and security in international civil

aviation. The delegation informed that its State is willing to assist other States with regard to ratification of the Convention and the Protocol if they so wish.

33:8 In summarizing the discussions, the Chairman emphasized the economic benefits of the Cape Town instruments, the encouragement given to States to ratify these instruments, and the progress made in establishing the International Registry.

33:9 As a result of the discussions, the Commission *noted* the working papers referred to in paragraph 33:1.