

Editorial

This special issue of *Air & Space Law* is entirely devoted to the proposed Unidroit Convention on International Interests in Mobile Equipment as it will be applied to Aircraft Equipment. It may be unique that so much attention is given to a project that is yet to become, but may never be, substantive law. In the past many efforts have been undertaken to intervene in the private market place and to uniformize the legal regime in a specific sector of the industry globally. In the field of aviation there are at least two excellent examples of successful treaty making. The Warsaw Convention, seeking to provide uniform rules of law in respect of liability of the air carrier, and the 1948 Geneva Convention on the recognition of rights in aircraft, did create legal regimes with international stature, although in the case of the Geneva Convention, not as widespread as was hoped at the inception of that Convention. The objective of the Warsaw Convention was, however, to limit liability in an industry which was in its infancy and the concept was that air carriers deserved protection against unlimited liability in a business which was still in its pioneering years. The Geneva Convention sought to achieve that an interest in an aircraft, duly registered in the State of registration, shall be recognized in other Contracting States. Such recognition of a foreign mortgage does, however, not entail that the rights and the remedies granted under such foreign law would be available to the mortgagee in the jurisdiction where enforcement is sought. Such rights and remedies are basically restricted to the rights and remedies available to mortgagees generally in the

jurisdiction where enforcement is sought. There are other efforts to provide a global legal regime in specific sectors, like intellectual property, where specific rules to protect owners of intellectual property rights were considered required in order to protect innovation and investments made therein.

Given the problems which the aircraft finance industry is facing in certain parts of the world to enforce security rights and repossession rights, trying to create a regime protecting the legitimate interests of lessors and holders of security interests in aircraft is a justified cause. It remains important, however, to also consider at all times the interests of other parties, including the lessee and the operator of the aircraft as well as their respective ordinary creditors or secured creditors under a less preferential regime, and to try to find the right balance. Time will tell whether the Unidroit Convention does provide the right balance.

The Board of Editors of *Air & Space Law* is pleased that authors who have been closely involved in the process leading to the inception of the proposed Unidroit Convention and the Aircraft Equipment Protocol have agreed to contribute to this special issue. The potential relevance for the aviation industry of the Unidroit Convention, if widely applied, justifies the publication of the full text of the draft Convention and the Aircraft Equipment Protocol as well as the report on the anticipated economic benefits of the Unidroit Convention.

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