

Convention on international interests in mobile equipment and its Protocol on matters specific to aircraft equipment. Cape Town Convention and Aircraft Protocol 2001

2008/0162(CNS) - 11/08/2008 - Legislative proposal

PURPOSE: conclusion by the European Community of the Convention on International Interests in Mobile Equipment and its Protocol on matters specific to aircraft equipment, adopted jointly in Cape Town on 16 November 2001.

PROPOSED ACT: Amended Proposal for a Council Decision.

CONTENT: the Commission is proposing that the Community should conclude the Convention on

International Interests in Mobile Equipment ("the Cape Town Convention") and its Protocol on matters specific to aircraft equipment ("the Aircraft Protocol") adopted, at a Diplomatic Conference held in Cape Town from 29 October to 16 November 2001, under the combined auspices of the International Institute for the Unification of Private Law (UNIDROIT) and the International Civil Aviation Organisation (ICAO).

To recall, the Cape Town Convention and Aircraft Protocol are mixed agreements falling partly under exclusive Community competence. In 2002, the Commission presented two proposals for the signing and the conclusion by the Community of these instruments (see [CNS/2002/0312](#)). These proposals contained declarations to be made by the Community on the application of specific provisions of both instruments which affect Community law.

Following discussions in the Civil Law Committee, the file was sent to COREPER in October 2003, but it did not reach adoption because of a dispute between Spain and the United Kingdom relating to the Gibraltar authorities in the context of mixed agreements. This dispute has been solved in December 2007. However the context has substantially changed since December 2003 as a number of new Member States joined the Community and the Convention and Protocol are no more open to signature. Therefore an amended proposal was necessary.

This proposal replaces and updates the following proposals that were presented by the Commission in 2002. In the course of the Cape Town Diplomatic Conference in November 2001, the Community obtained provisions allowing it to apply Community law instead of the Convention and the Aircraft Protocol in matters covered by Regulations (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters and (EC) No 1346/2000 on insolvency proceedings.

At the time of conclusion, to make declarations on the matters falling within the Community's exclusive jurisdiction. These declarations attached in Annex II deal with the following matters:

- interim relief (Article 55 of the Convention and Article X of the Protocol);
- insolvency (Articles XI and XII of the Protocol);
- the application of Article VIII of the Aircraft Protocol on choice of law.

The United Kingdom and Ireland should take part in the adoption and application of this Decision. Denmark shall not take part in the adoption of this Decision and is not bound by it or subject to its application.