



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

(Cape Town, 29 October to 16 November 2001)

COMMENTS ON DRAFT CONVENTION AND DRAFT PROTOCOL

(Presented by China)

PROPOSAL 1: FINAL PROVISIONS

Where Article 47, Chapter XIV of the Draft Convention stipulates: “This Convention...after ...the [third/fifth] instrument of ratification, acceptance,...”

China proposes to amend the relevant portion to read “This Convention...after ...the thirtieth instrument of ratification, acceptance,...”

Reason: ICAO conventions generally require 30 or more ratifications before they enter into force. Examples include the Montreal Convention of 1999 and the Guatemala Protocol of 1971.

For the same reason, it is proposed that Article 26 of the Draft Protocol where it reads “This Protocol...after...the [third/fifth] instrument of ratification, acceptance,...” be reworded to read “This Protocol...after...the thirtieth instrument of ratification, acceptance,...”

PROPOSAL 2: MULTIPLE GUARANTEES

It is proposed that a new article be added after Article 47 of the proposed Convention:

Article 48	Multiple
Guarantees	

“After entry into force of this Convention, creditors shall gradually relieve debtors bound by this Convention of their obligation to provide guarantees other than those provided for in this Convention.”

Reason: The purpose of the proposed Convention is to provide uniform international validation and protection for international interests. As compared with other forms of guarantees, such validation and protection enjoy a higher status and are more reliable in effect. It would therefore be unnecessary to require additional guarantees on the part of the debtor.

PROPOSAL 3: CONSOLIDATED TEXT

China supports the position of formulating a consolidated text in lieu of a convention and a protocol.

PROPOSAL 4: THE CHINESE VERSION

China proposes that the Chinese version be treated as one of the authentic versions of the proposed Convention because the Chinese language is one of the working languages of the UN as well as of ICAO.

PROPOSAL 5: PROTECTION OF DEBTORS' RIGHTS AND INTERESTS

It is proposed that an additional article be introduced to Chapter III of the proposed Convention as follows:

“Article 15 Debtors’ Protection

1. Where a debtor has performed its obligations, the creditor shall not infringe upon the debtor’s lawful rights and interests in the object.
2. Where a creditor's abuse of remedies has caused harm to a debtor, the creditor shall pay damages so caused.”

Reason: The Convention should provide protection for the lawful rights and interests of both the creditor and the debtor.

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