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

(Cape Town, 29 October to 16 November 2001)

DRAFT FINAL ACT

of the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol held under the joint auspices of the
International Institute for the Unification of Private Law and the
International Civil Aviation Organization
at Cape Town from 29 October to 16 November 2001

The Plenipotentiaries at the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol, held under the joint auspices of the International Institute for the Unification of Private Law and the International Civil Aviation Organization, met at Cape Town, at the invitation of the Government of the Republic of South Africa, from 29 October to 16 November 2001 for the purpose of considering the draft Convention on International Interests in Mobile Equipment and the draft Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, prepared by three Joint Sessions of a Committee of Governmental Experts of the International Institute for the Unification of Private Law and a Legal Sub-Committee of the International Civil Aviation Organization, as well as by the Legal Committee of the International Civil Aviation Organization.

The Governments of the following [forty-four (44)] States were represented at the Conference and presented credentials in due and proper form:

Angola, the Republic of
Argentine Republic, the
Australia
Bahrain, the State of
Belgium, the Kingdom of
Botswana, the Republic of
Brazil, the Federative Republic of
Burundi, the Republic of
Cameroon, the Republic of
Canada
Chile, the Republic of
China, the People’s Republic of
Costa Rica, the Republic of

Cuba, the Republic of
Czech Republic, the
Finland, the Republic of
French Republic, the
Germany, the Federal Republic of
Hellenic Republic, the
Ireland
Jamaica
Japan
Jordan, the Hashemite Kingdom of
Kenya, the Republic of
Lebanese Republic, the
Lesotho, the Kingdom of
Mexican States, the United Netherlands, the Kingdom of the Oman, the Sultanate of Singapore, the Republic of South Africa, the Republic of Spain, the Kingdom of
Republic of Korea, the
Sudan, the Republic of the
Sweden, the Kingdom of
Swiss Confederation, the
Thailand, the Kingdom of
Tonga, the Kingdom of
Turkey, the Republic of
Uganda, the Republic of
United Arab Emirates, the
United Kingdom of Great Britain and Northern Ireland, the
United States of America, the

The following [ten (10)] international organizations were represented by Observers:

- African Civil Aviation Commission (AFCAC)
- Aviation Working Group (AWG)
- European Organisation for the Safety of Air Navigation (EUROCONTROL)
- European Community
- Hague Conference on Private International Law
- International Air Transport Association (IATA)
- Intergovernmental Organization for International Carriage by Rail (OTIF)
- Rail Working Group (RWG)
- Space Working Group (SWG)
- United Nations

The Conference unanimously elected as President Mr. M.R. Rwelamira (South Africa) and further unanimously elected as Vice-Presidents:

- First Vice-President – Mr. H. Burman (U.S.A.)
- Second Vice-President – Mr. Gao H. (China)
- Third Vice-President – Mr. S. Eid (Lebanon)
- Fourth Vice-President – Mr. J. Salgado Gama Filho (Brazil)
- Fifth Vice-President – Mr. J. Atwood (Australia)

The Joint Secretariat of the Conference was the following:

For the International Institute for the Unification of Private Law:

- Secretary General – Mr. Herbert Kronke, Secretary General
- Executive Secretary – Mr. Martin Stanford, Principal Research Officer
- Deputy Secretary – Ms. Frédérique Mestre, Research Officer
- Assistant Secretary – Ms. Lena Peters, Research Officer

For the International Civil Aviation Organization:

- Secretary General – Mr. Ludwig Weber, Director of the Legal Bureau
- Executive Secretary – Mr. Silvério Espinola, Principal Legal Officer
- Deputy Secretary – Mr. Jiefang Huang, Legal Officer
- Assistant Secretary – Mr. Arie Jakob, Legal Officer
Other officials of both Organizations also provided services to the Conference.

The Conference established a Commission of the Whole which was chaired by Mr. A. Leinonen (Finland) and the following Committees:

_Credentials Committee_

Chairman: Ms. J. Thompson (Ghana)

Members: Costa Rica
         Ghana
         Oman
         Singapore
         Spain

_Drafting Committee_

Chairman: Sir Roy Goode (United Kingdom)

Members: Argentina
         Canada
         China
         France
         Germany
         Jamaica
         Japan
         Lebanon
         Mexico
         Nigeria
         Russian Federation
         South Africa
         United Arab Emirates
         United Kingdom
         United States

_Final Clauses Committee_

Chairman: Mr. K. Rattray (Jamaica)

Members: Canada
         China
         Cuba
         Egypt
         France
         Jamaica
         Kenya
         Pakistan
Following its deliberations, the Conference adopted the texts of the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment.

The said Convention and Protocol have been opened for signature at Cape Town this day.

The Conference furthermore adopted by consensus the following Resolutions:

**DRAFT RESOLUTION NO. 1**

**ADOPTING THE CONSOLIDATED TEXT OF THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT AND THE PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT**

MINDFUL of the objectives of the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment;

DESIROUS to facilitate the application and implementation of the Convention and of the Protocol;

TAKING INTO ACCOUNT Article 6, paragraph 1, of the Convention, which states that the Convention and the Protocol shall be read and interpreted together as a single instrument;

RECOGNIZING the need of the international civil aviation community to facilitate the implementation of the rules applicable to aircraft objects in a user-friendly manner;

HAVING AGREED to entrust the Joint Secretariat of the Conference, namely the Secretariats of the International Civil Aviation Organization (ICAO) and of the International Institute for the Unification of Private Law (UNIDROIT), with the drawing up of an authoritative consolidated text;

THE CONFERENCE:
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**HEREBY ADOPTS** the Consolidated Text of the *Convention on International Interests in Mobile Equipment* and the *Protocol thereto on Matters Specific to Aircraft Equipment* as set out in the **Attachment** to this Resolution.

[Attachment to this Resolution set out in DCME Doc No. 50, as amended]

**DRAFT RESOLUTION NO. 2**

**RELATING TO THE ESTABLISHMENT OF THE SUPERVISORY AUTHORITY AND THE INTERNATIONAL REGISTRY FOR AIRCRAFT OBJECTS**

**THE CONFERENCE,**

**HAVING ADOPTED** the *Convention on International Interests in Mobile Equipment* and the *Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment;*

**HAVING REGARD** to Article XVI paragraph 1 of the Protocol;

**CONSCIOUS** of the need to undertake preparatory work regarding the establishment of the International Registry in order to ensure that it is operational by the time the Convention and the Protocol enter into force;

**CONSIDERING** that the Council of the International Civil Aviation Organization (ICAO), following a recommendation made by the 31st Session of its Legal Committee, decided during its 161st Session to accept, in principle, the role of the Supervisory Authority of the International Registry for the purpose of the Protocol, and to defer further decisions on this matter until after the Diplomatic Conference;

**RESOLVES:**

**TO INVITE** ICAO to accept the functions of the Supervisory Authority upon the entry into force of the Convention and the Protocol;

**TO INVITE** ICAO to establish a Commission of Experts consisting of not more than 15 members appointed by the ICAO Council from among persons nominated by the Signatory and Contracting States to the Convention and to the Protocol, having the necessary qualifications and experience, with the task to assist the Supervisory Authority, upon the entry into force of the Convention and the Protocol;

**TO SET UP,** pending the entry into force of the Convention and Protocol, a Preparatory Commission to act as Provisional Supervisory Authority for the establishment of the International Registry, under the guidance and supervision of the ICAO Council. Such Preparatory Commission shall
be composed of persons, having the necessary qualifications and experience, nominated by the following States: (insert names of States)

**TO DIRECT** the Preparatory Commission to carry out, under the guidance and supervision of the ICAO Council, the following functions:

1. to ensure that the International Registry be set up, in accordance with an objective, transparent and fair selection process, and that it become ready to be operated with a target date of one year from the adoption of the Convention and the Protocol, and at the latest by the time of the entry into force of the Convention and the Protocol;

2. to ensure the necessary liaison and coordination with the private industry which will be users of the International Registry; and

3. to work on such other matters relating to the International Registry as may be required with a view to ensuring the establishment of the International Registry.

**TO URGE** the States participating in the Conference and interested private parties to make available, at the earliest possible time, the necessary start-up funding on a voluntary basis for the tasks of the Preparatory Commission and of ICAO, required under the two preceding resolving clauses, and to entrust ICAO with the task to administer such funds.

**DRAFT RESOLUTION NO. 3**

**PURSUANT TO ARTICLE 2(3)(b) AND (c) OF THE CONVENTION**

**THE CONFERENCE,**

_HAVING ADOPTED,_ in Article 2(3)(b) and (c) of the Convention, provisions contemplating the adoption of Protocols on matters specific to Railway Rolling Stock and Space Assets;

**CONSIDERING THAT** such Protocols will be applied together with the terms of the Convention and are expected also to include analogous provisions to those contained in the Aircraft Protocol;

**CONSIDERING THAT** considerable progress has already been made in relation to the development of such Protocols and such progress has been welcomed by the Conference;

**CONSIDERING THAT** the completion of such Protocols is to be expected to confer significant benefits on the international community as a whole, in particular for developing states; and

(8 pages)
CONSIDERING IT DESIRABLE to involve as wide a range of States as possible in the process for the adoption of such Protocols and to keep the costs of such adoption to a reasonable minimum;

RESOLVES:

TO INVITE the negotiating States to work towards expeditious adoption of the draft Protocols under preparation in respect of those objects falling within Article 2(3)(b) and (c);

TO INVITE the International Institute for the Unification of Private Law (UNIDROIT) to use its good offices to facilitate such objective;

TO INVITE UNIDROIT to give all Member States of UNIDROIT and Member States of the United Nations which are not members of UNIDROIT, an opportunity to participate in the negotiation and adoption of such Protocols in a cost effective manner; and

TO INVITE the competent bodies of UNIDROIT to consider favourably the implementation of an expedited procedure for the adoption of such Protocols, and in particular to consider the diplomatic Conference required for their adoption being as short as possible consistently with the need for States to give such Protocol proper consideration.

DRAFT RESOLUTION NO. 4

RELATING TO TECHNICAL ASSISTANCE WITH REGARD TO THE IMPLEMENTATION AND THE USE OF THE INTERNATIONAL REGISTRY

THE CONFERENCE,

MINDFUL of the objectives of the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on Matters Specific to Aircraft Equipment;

DESIRIOUS to facilitate the implementation of the Convention and the Protocol as well as the prompt implementation and the use of the international registry;

RESOLVES:

TO ENCOURAGE all Negotiating States, international organizations, as well as private parties, such as the aviation and financial industries, to assist the developing Negotiating States in any appropriate way, including facilities and know-how necessary to use the international registry, so as to allow them to benefit from the Convention and the Protocol as early as possible.

IN WITNESS WHEREOF the Delegates,

GRATEFUL to the Government of the Republic of South Africa for having invited the Conference to South Africa and for its generous hospitality,
HAVE SIGNED this Final Act.

DONE at Cape Town on the sixteenth day of November of the year Two Thousand and One in six authentic texts in the English, Arabic, Chinese, French, Russian and Spanish languages in two copies. The Convention and the Protocol shall be deposited with the International Institute for the Unification of Private Law. A certified copy of each instrument shall be delivered by the said Organization to each of the Governments represented at the Conference.

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