



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

(Cape Town, 29 October to 16 November 2001)

COMMENTS ON THE DRAFT CONVENTION

(Presented by Japan)

CHAPTER IX

**ASSIGNMENTS OF INTERNATIONAL INTERESTS
AND RIGHTS OF SUBPROGATION**

1. We refer to footnote 2 of Chapter IX of the Convention, especially the Chairman's proposal that Chapter IX be more into line with those national legal systems under which an assignment of associated rights would carry with it the international interest securing those rights. Since Japan, together with other civil law jurisdictions, has such a legal system, we have supported this proposal.

1.1 The attached is the revised draft of Chapter IV made by Japan for discussion purpose. In revising the text, we tried to put more focus on the assignment of associated rights in order to harmonize with the legal principle that the security follows the secured right. Further, new paragraphs 2 of Articles 31 and 34 are added to ensure that the associated rights and the international interest may not be assigned independently. On the other hand, we also tried to add, as least as possible, to the requirements and formalities of the assignment of a right normally provided for in national laws. We ask our revision be considered.

2. Apart from the above revision, Japan prefers to delete the entire sub-paragraph (c) of Article 32 (1) because it imposes an additional burden or adverse effect to a creditor, which may not be recognized under national laws. Although paragraph 1 is the obligation of the debtor, paragraph 2 provides for the debtor's discharge. In addition, this Article is not relating to determine the priority among the competing assignees. Thus, if a debtor receives the first notice in conformity with paragraph 1 and makes a payment to that assignee, the debtor will be discharged from making further payments to subsequent assignees under paragraph 2, even if the first assignee is not ultimately found to be the assignee with the priority under Article 34. Although we anticipate certain limited cases where supplemental rules might be necessary, such as those applicable to the simultaneous receipt of more than one notice, as the general rule to be included in the Convention, this Article seems to satisfy adequate debtor's protection.

— — — — —