

# FINAL ACT

**of the Diplomatic Conference for the adoption of the draft Protocol  
to the Convention on International Interests in Mobile Equipment  
on Matters specific to Mining, Agricultural and Construction Equipment  
held at the invitation of the Government of the Republic of South Africa and under  
the auspices of the International Institute for the Unification of Private Law (UNIDROIT)  
in Pretoria from 11 to 22 November 2019**

(presented by the UNIDROIT Secretariat)

The Plenipotentiaries at the Diplomatic Conference for the adoption of the draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Mining, Agricultural and Construction Equipment met in Pretoria, at the invitation of the Government of the Republic of South Africa and under the auspices of the International Institute for the Unification of Private Law (UNIDROIT), from 11 to 22 November 2019 for the purpose of considering the *draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Mining, Agricultural and Construction Equipment*, prepared by an UNIDROIT Committee of Governmental Experts.

Representatives of the Governments of 41 States participated in the Conference.

The representatives of the Governments of the following 34 States and one Regional Economic Integration Organisation presented credentials in due and proper form:

Argentine Republic, the	Italy, the Republic of
Australia	Japan
Benin, the Republic of	Korea, the Republic of
Brazil, the Federative Republic of	Mexico (the United Mexican States)
Canada	Namibia, the Republic of
Chile, the Republic of	Paraguay, the Republic of
China, the People's Republic of	Poland, the Republic of
Congo, the Republic of the	South Africa, the Republic of
Côte d'Ivoire, the Republic of	Spain, the Kingdom of
Democratic Republic of the Congo, the	Sri Lanka, the Democratic Socialist
European Union, the	Republic of
Finland, the Republic of	Syrian Arab Republic, the
French Republic, the	Turkey, the Republic of
Gambia, the Republic of the	United Kingdom of Great Britain and
Germany, the Federal Republic of	Northern Ireland, the
Ghana, the Republic of	United States of America, the
Hellenic Republic, the	Uruguay, the Eastern Republic of
Holy See	Uzbekistan
Ireland	

The following seven States also participated in the Conference:

Cameroon, the Republic of  
Egypt, the Arab Republic of  
Indonesia, the Republic of  
Pakistan, the Islamic Republic of

Russian Federation, the  
Switzerland, Swiss Confederation  
United Arab Emirates, the

The following three intergovernmental organisations were represented by observers:

Intergovernmental Organisation for International Carriage By Rail (OTIF)  
World Bank Group  
World Customs Organization (WCO)

The following four international non-governmental organisations were represented by observers:

Aviation Working Group (AWG)  
MAC Working Group  
Rail Working Group (RWG)  
Kozolchyk National Law Center (NatLaw)

The following technical adviser participated in the Conference:

Aviareto, Registrar of the International Registry under the Aircraft Protocol

The Conference unanimously elected as President Ms Sandea de Wet (South Africa) and further unanimously elected as Vice-Presidents:

H.E. Ms Ana Luisa Fajer (Mexico)  
Mr Pierre Oba (Republic of Congo)  
H.E. Mr Cèsar Eneas Rodríguez Zavalla (Uruguay)  
Mr Jun Ye (People's Republic of China)  
Mr Marvin Yuen (Germany)

The Secretariat of the Conference was as follows:

Secretary General – Mr Ignacio Tirado, Secretary-General of UNIDROIT  
Executive Secretary – Mr William Brydie-Watson, Senior Legal Officer of UNIDROIT  
Deputy Secretary – Ms Anna Veneziano, Deputy Secretary-General of UNIDROIT  
Deputy Secretary – Ms Marina Schneider, Principal Legal Officer &  
Treaty Depositary of UNIDROIT  
Assistant Secretary – Mr Hamza Hameed, Legal Consultant of UNIDROIT

Ms Audrey Chaunac and Ms Isabelle Dubois, members of the UNIDROIT Secretariat, provided administrative services to the Conference.

The Conference established a Commission of the Whole, which was chaired by Mr Dominique D'Allaire (Canada) and to which Sir Roy Goode (United Kingdom) acted as *Rapporteur*, and the following Committees:

*Credentials Committee*

Chairperson: Mr Koffi Rodrigue N'Guessan (Côte d'Ivoire)

Members: Australia  
Brazil  
Côte d'Ivoire  
Japan  
Spain

Adviser: South Africa

*Drafting Committee*

Co-Chairpersons: Mr Jean-François Riffard (France) / Mr Charles W. Mooney (United States of America)

Members: Australia  
Canada  
France  
Germany  
Japan  
Mexico  
South Africa  
Spain  
United Kingdom  
United States of America

*Final Clauses Committee*

Co-Chairpersons: Mr Thembile Joyini (South Africa) / Reverend Mark Winton Smith (United Kingdom)

Members: Argentina  
Australia  
Brazil  
Canada  
China  
Germany  
Ghana  
Japan  
Mexico  
Paraguay  
South Africa  
Spain  
Syrian Arab Republic  
United Kingdom  
United States of America  
Uruguay  
Uzbekistan

Observers: Kozolchik National Law Center (Natlaw)  
World Bank Group  
World Customs Organisation (WCO)

*Working Group on HS Codes*

Chairperson: Mr Ole Böger (Germany)

Members: Australia  
Canada  
China  
Germany  
Indonesia  
Japan  
Poland  
Republic of Congo  
South Africa  
United Kingdom  
United States of America  
Uzbekistan

Observers: Kozolchyk National Law Center (NatLaw)  
MAC Working Group  
World Bank Group  
World Customs Organization (WCO)

Following its deliberations, the Conference adopted the text of the *Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Mining, Agricultural and Construction Equipment*.

The said Protocol has been opened for signature in Pretoria this day.

The texts of the said Protocol and the Resolutions adopted by the Conference are subject to verification by the Secretariat of the Conference under the authority of the President of the Conference within a period of ninety days from the date hereof as to the linguistic changes required to make the texts in the different languages consistent with one another.

The Conference furthermore adopted by consensus the following Resolutions, which are set out in appendices to this Final Act.

IN WITNESS WHEREOF the representatives,

HAVE SIGNED this Final Act.

DONE at Pretoria, this twenty-second day of November two thousand and nineteen in a single copy in the English and French languages, each text being equally authentic.

The President

The Secretary General

**PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE  
EQUIPMENT ON MATTERS SPECIFIC TO MINING, AGRICULTURAL AND  
CONSTRUCTION EQUIPMENT**

THE STATES PARTIES TO THIS PROTOCOL,

CONSIDERING the significant benefits of the Convention on International Interests in Mobile Equipment (hereinafter referred to as the "Convention"), as facilitating the financing and leasing of uniquely identifiable high-value mobile equipment,

RECOGNISING the important role that mining, agricultural and construction equipment play in the global economy,

AWARE of the benefits of extending the Convention to mining, agricultural and construction equipment,

MINDFUL of the need to adapt the Convention to the particular requirements of the mining, agricultural and construction sectors and of their finance,

NOTING that the World Customs Organization's Harmonized System governed by the International Convention on the Harmonized Commodity Description and Coding System allows the determination of the categories of mining, agricultural and construction equipment to which the extension of the Convention is warranted,

HAVE AGREED upon the following provisions relating to mining, agricultural and construction equipment:

**CHAPTER I**

**SPHERE OF APPLICATION AND GENERAL PROVISIONS**

**Article I – Defined terms**

1. In this Protocol, except where the context otherwise requires, terms used in it have the meanings set out in the Convention.
2. In this Protocol the following terms are employed with the meanings set out below:
  - (a) "agricultural equipment" means an object that falls under a Harmonized System code listed in Annex 2 to the Protocol, including all installed, incorporated or attached accessories, components and parts which do not fall within a separate Harmonized System code listed in that Annex, and all data, manuals and records relating thereto;
  - (b) "construction equipment" means an object that falls under a Harmonized System code listed in Annex 3 to the Protocol, including all installed, incorporated or attached accessories, components and parts which do not fall within a separate Harmonized System code listed in that Annex, and all data, manuals and records relating thereto;

- (c) "Contracting State proposal" means a proposal for modification of the Annexes made by at least two Contracting States;
- (d) "dealer" means a person (including a manufacturer) that sells or leases equipment in the ordinary course of its business;
- (e) "Depositary proposal" means a notification from the Depositary pursuant to Article XXXV(2) relating to the Harmonized System codes in the Annexes affected by a Harmonized System revision and containing a proposal of adjustments to those codes in the Annexes;
- (f) "equipment" means mining equipment, agricultural equipment or construction equipment;
- (g) "guarantee contract" means a contract entered into by a person as guarantor;
- (h) "guarantor" means a person, who, for the purpose of assuring performance of any obligations in favour of a creditor secured by a security agreement or under an agreement, gives or issues a suretyship or demand guarantee or a standby letter of credit or any other form of credit insurance;
- (i) "Harmonized System" means the Harmonized Commodity Description and Coding System governed by the International Convention on the Harmonized Commodity Description and Coding System, as amended by the Protocol of Amendment of 24 June 1986;
- (j) "Harmonized System revision" means a revision of the Harmonized System codes as accepted by the World Customs Organization (established as the Customs Co-operation Council) according to its procedures;
- (k) "immovable-associated equipment" means equipment that is so associated with immovable property that an interest in the immovable property extends to the equipment under the law of the State in which the immovable property is situated;
- (l) "implementation period" means:
- (i) for the purposes of Article XXXV, the initial period commencing on the date the Depositary sends a notification to Contracting States under Article XXXV(6) and ending on the date on which adjustments would enter into force as specified in that paragraph; and
  - (ii) for the purposes of Article XXXVI, the initial period commencing on the date the Depositary sends a notification to Contracting States under Article XXXVI(8) and ending on the date on which modifications would enter into force as specified in that paragraph.
- (m) "insolvency-related event" means:
- (i) the commencement of the insolvency proceedings; or
  - (ii) the declared intention to suspend or actual suspension of payments by the debtor where the creditor's right to institute insolvency proceedings against the debtor or to exercise remedies under the Convention is prevented or suspended by law or State action;
- (n) "inventory" means equipment held by a dealer for sale or lease in the ordinary course of its business;
- (o) "mining equipment" means an object that falls under a Harmonized System code listed in Annex 1 to the Protocol, including all installed, incorporated or attached accessories, components and parts which do not fall within a separate Harmonized System code listed in that Annex, and all data, manuals and records relating thereto;
- (p) "new Contracting State" means a State that becomes a Contracting State after the date the Depositary sends to Contracting States a Depositary proposal or a notification of a Contracting State proposal, as applicable; and

(q) “primary insolvency jurisdiction” means the Contracting State in which the centre of the debtor’s main interests is situated, which for this purpose shall be deemed to be the place of the debtor’s statutory seat or, if there is none, the place where the debtor is incorporated or formed, unless proved otherwise.

## **Article II – Application of the Convention as regards equipment**

1. The Convention shall apply in relation to mining equipment, agricultural equipment and construction equipment as provided by the terms of this Protocol and Annexes 1, 2 and 3 irrespective of any intended or actual use of the equipment.
2. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will limit the application of this Protocol to the entirety of the equipment comprised in one or two of the Annexes.
3. This Protocol does not apply to objects falling within the definition of “aircraft objects” under the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, “railway rolling stock” under the Luxembourg Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock or “space asset” under the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Space Assets.
4. The Convention and this Protocol shall be known as the Convention on International Interests in Mobile Equipment as applied to mining equipment, agricultural equipment and construction equipment.

## **Article III – Derogation**

The parties may, by agreement in writing, exclude the application of Article X and, in their relations with each other, derogate from or vary the effect of any of the provisions of this Protocol except Article VIII (2) – (4).

## **Article IV – Representative capacities**

A person may, in relation to equipment, enter into an agreement, effect a registration as defined by Article 16(3) of the Convention and assert rights and interests under the Convention in an agency, trust or representative capacity.

## **Article V – Identification of equipment**

1. For the purposes of Article 7(c) of the Convention and Article XXI, a description of equipment is sufficient to identify the equipment if it contains:
  - (a) a description of the equipment by item;
  - (b) a description of the equipment by type;
  - (c) a statement that the agreement covers all present and future equipment; or
  - (d) a statement that the agreement covers all present and future equipment except for specified items or types.

2. For the purposes of Article 7 of the Convention, an interest in future equipment identified in accordance with the preceding paragraph shall be constituted as an international interest as soon as the chargor, conditional seller or lessor acquires the power to dispose of the equipment, without the need for any new act of transfer.

#### **Article VI – Choice of law**

1. This Article applies only where a Contracting State has made a declaration pursuant to Article XXVIII(1).

2. The parties to an agreement or a related guarantee contract or subordination agreement may agree on the law which is to govern their contractual rights and obligations, wholly or in part.

3. Unless otherwise agreed, the reference in the preceding paragraph to the law chosen by the parties is to the domestic rules of law of the designated State or, where that State comprises several territorial units, to the domestic law of the designated territorial unit.

#### **Article VII – Association with immovable property**

1. Where immovable-associated equipment is situated in a non-Contracting State, this Protocol does not affect the application of any law of that State that determines whether an international interest in the immovable-associated equipment cannot be created, has ceased to exist, is subordinated to any other rights or interests in the immovable-associated equipment, or is otherwise affected by the association of the equipment with immovable property.

2. A Contracting State shall, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that the entirety of Alternative A, B, or C of this Article shall apply in relation to an international interest in immovable-associated equipment which is situated in the Contracting State.

##### *Alternative A*

3. If immovable-associated equipment is severable from the immovable property, its association with the immovable property does not affect the application of this Protocol, including the creation, existence, priority or enforcement of any international interest in that equipment. This Protocol does not apply to immovable-associated equipment that is not severable from the immovable property.

4. Immovable-associated equipment is severable from the immovable property only if its estimated value after physical disconnection of the equipment from the immovable property would be greater than the estimated cost of the disconnection and of any restoration of the immovable property.

5. If immovable-associated equipment is severable from the immovable property at the time it becomes immovable-associated equipment or the time an international interest in the equipment is created, whichever is the later, there is a rebuttable presumption that it continues to be severable from that immovable property.



*Alternative B*

3. This Protocol does not affect the application of any law of the State where immovable property is situated that determines whether an international interest in immovable-associated equipment cannot be created, has ceased to exist, is subordinated to any other rights or interests in the immovable-associated equipment, or is otherwise affected by the association of the equipment with immovable property if the equipment has lost its individual legal identity in accordance with the law of that State.

4. Where equipment subject to a registered international interest is immovable-associated equipment and has not lost its individual legal identity in accordance with the law of the State where the immovable property is situated, an interest in the immovable property that extends to that equipment has priority over the registered international interest in the equipment only if the following conditions are fulfilled:

- (a) the interest in the immovable property has been registered in accordance with the requirements of domestic law prior to the time of registration of the international interest in the equipment under this Protocol and registration of the interest in the immovable property continues to be effective; and
- (b) the equipment became associated with the immovable property prior to the time of registration of the international interest in the equipment under this Protocol.

*Alternative C*

3. This Protocol does not affect the application of any law of the State where immovable property is situated that determines whether an international interest in immovable-associated equipment cannot be created, has ceased to exist, is subordinated to any other rights or interests in the immovable-associated equipment, or is otherwise affected by the association of the equipment with immovable property.

## **CHAPTER II**

### **DEFAULT REMEDIES AND PRIORITIES**

#### **Article VIII — Modification of default remedies provisions**

1. In addition to the remedies specified in Chapter III of the Convention, the creditor may, to the extent that the debtor has at any time so agreed and in the circumstances specified in that Chapter, procure the export and physical transfer of equipment from the territory in which it is situated.

2. The creditor shall not exercise the remedies specified in the preceding paragraph without the prior consent in writing of the holder of any registered interest ranking in priority to that of the creditor.

3. Article 8(3) of the Convention shall not apply to equipment. Any remedy given by the Convention in relation to equipment shall be exercised in a commercially reasonable manner. A remedy shall be deemed to be exercised in a commercially reasonable manner where it is exercised in conformity with a provision of the agreement except where such a provision is manifestly unreasonable.

4. A chargee giving fourteen or more calendar days' prior written notice of a proposed sale or lease to interested persons as provided by Article 8(4) of the Convention shall be deemed to satisfy the requirement of giving the "reasonable prior notice" specified therein. The foregoing shall not prevent a chargee and a chargor or a guarantor from agreeing to a longer period of prior notice.

5. Subject to any applicable safety laws and regulations, a Contracting State shall ensure that the relevant administrative authorities expeditiously co-operate with and assist the creditor to the extent necessary for the exercise of the remedies specified in paragraph 1.

6. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will not apply the preceding paragraph.

7. A chargee proposing to procure the export of equipment under paragraph 1 otherwise than pursuant to a court order shall give reasonable prior notice in writing of the proposed export to:

- (a) interested persons specified in Article 1(m)(i) and (ii) of the Convention; and
- (b) interested persons specified in Article 1(m)(iii) of the Convention who have given notice of their rights to the chargee within a reasonable time prior to the export.

#### **Article IX – Modification of provisions regarding relief pending final determination**

1. This Article applies only in a Contracting State which has made a declaration pursuant to Article XXVIII(2) and to the extent stated in such declaration.

2. For the purposes of Article 13(1) of the Convention, "speedy" in the context of obtaining relief means within such number of calendar days from the date of filing of the application for relief as is specified in a declaration made by the Contracting State in which the application is made.

3. Article 13(1) of the Convention applies with the following being added immediately after subparagraph (d):

"(e) if at any time the debtor and the creditor specifically agree, sale of the object and application of proceeds therefrom",

and Article 43(2) applies with the insertion after the words "Article 13(1)(d)" of the words "and (e)".

4. Ownership or any other interest of the debtor passing on a sale under the preceding paragraph is free from any other interest over which the creditor's international interest has priority under the provisions of Article 29 of the Convention.

5. The creditor and the debtor or any other interested person may agree in writing to exclude the application of Article 13(2) of the Convention.

6. With regard to the remedies in Article VIII(1):

(a) they shall be made available by the administrative authorities in a Contracting State no later than seven calendar days after the creditor notifies such authorities that the relief specified in Article 13 of the Convention is granted or, in the case of relief granted by a foreign court, recognised by a court of that Contracting State, and that the creditor is entitled to procure those remedies in accordance with the Convention; and

(b) the applicable authorities shall expeditiously co-operate with and assist the creditor in the exercise of such remedies in conformity with the applicable safety laws and regulations.

7. Paragraphs 2 and 6 shall not affect any applicable safety laws and regulations.

## **Article X – Remedies on Insolvency**

1. This Article applies only where a Contracting State that is the primary insolvency jurisdiction has made a declaration pursuant to Article XXVIII(3).
2. References in this Article to the “insolvency administrator” shall be to that person in its official, not in its personal, capacity.
3. Upon the occurrence of an insolvency-related event, the insolvency administrator or the debtor, as applicable, shall, subject to paragraph 7, give possession of the equipment to the creditor not later than the earlier of:
  - (a) the end of the waiting period; and
  - (b) the date on which the creditor would be entitled to possession of the equipment if this Article did not apply.
4. For the purpose of this Article, the “waiting period” shall be the period specified in a declaration of the Contracting State which is the primary insolvency jurisdiction.
5. Unless and until the creditor is given the opportunity to take possession under paragraph 3:
  - (a) the insolvency administrator or the debtor, as applicable, shall preserve the equipment and maintain it and its value in accordance with the agreement; and
  - (b) the creditor shall be entitled to apply for any other forms of interim relief available under the applicable law.
6. Sub-paragraph (a) of the preceding paragraph shall not preclude the use of the equipment under arrangements designed to preserve the equipment and maintain it and its value.
7. The insolvency administrator or the debtor, as applicable, may retain possession of the equipment where, by the time specified in paragraph 3, it has cured all defaults other than a default constituted by the opening of insolvency proceedings and has agreed to perform all future obligations under the agreement and related transaction documents. A second waiting period shall not apply in respect of a default in the performance of such future obligations.
8. With regard to the remedies in Article VIII(1):
  - (a) they shall be made available by the administrative authorities in a Contracting State no later than seven calendar days after the date on which the creditor notifies such authorities that it is entitled to procure those remedies in accordance with the Convention; and
  - (b) the applicable authorities shall expeditiously co-operate with and assist the creditor in the exercise of such remedies in conformity with the applicable safety laws and regulations.
9. No exercise of remedies permitted by the Convention or this Protocol may be prevented or delayed after the date specified in paragraph 3.
10. No obligations of the debtor under the agreement may be modified without the consent of the creditor.
11. Nothing in the preceding paragraph shall be construed to affect the authority, if any, of the insolvency administrator under the applicable law to terminate the agreement.

12. No rights or interests, except for non-consensual rights or interests of a category covered by a declaration pursuant to Article 39(1) of the Convention, shall have priority in insolvency proceedings over registered interests.

13. The Convention as modified by Article VIII shall apply to the exercise of any remedies under this Article.

### **Article XI – Insolvency assistance**

1. This Article applies only in a Contracting State which has made a declaration pursuant to Article XXVIII(1).

2. The courts of a Contracting State in which equipment is situated shall, in accordance with the law of that State, co-operate to the maximum extent possible with foreign courts and foreign insolvency administrators in carrying out the provisions of Article X.

### **Article XII – Provisions relating to inventory**

1. This Article applies only where a Contracting State has made a declaration pursuant to Article XXVIII(4).

2. An interest in inventory created or provided for by an agreement under which the dealer is the debtor is not an international interest if the dealer is situated in the Contracting State referred to in the preceding paragraph at the time the interest is created or arises.

3. Article 29(3)(b) and 29(4)(b) of the Convention do not apply to a buyer, conditional buyer or lessee of inventory from a dealer if the dealer is situated in the Contracting State referred to in paragraph 1 at the time that a buyer, conditional buyer or lessee acquires its interest in or rights over the inventory.

4. For the purposes of this Article a dealer is situated in a State where it has its place of business or, if it has more than one place of business in different States, its principal place of business.

### **Article XIII – Debtor provisions**

1. In the absence of a default within the meaning of Article 11 of the Convention, the debtor shall be entitled to the quiet possession and use of the equipment in accordance with the agreement as against:

- (a) its creditor and the holder of any interest from which the debtor takes free pursuant to Article 29(4)(b) of the Convention unless and to the extent that the debtor has otherwise agreed; and
- (b) the holder of any interest to which the debtor's right or interest is subject pursuant to Article 29(4)(a) of the Convention, but only to the extent, if any, that such holder has agreed.

2. Nothing in the Convention or this Protocol affects the liability of a creditor for any breach of the agreement under the applicable law in so far as that agreement relates to equipment.

## **CHAPTER III**

### **REGISTRY PROVISIONS RELATING TO INTERNATIONAL INTERESTS IN EQUIPMENT**

#### **Article XIV – The Supervisory Authority and the Registrar**

1. The Supervisory Authority shall be the international entity designated pursuant to a resolution of the Diplomatic Conference for the adoption of this Protocol provided that such Supervisory Authority is able and willing to act in such capacity.
2. Where the international entity referred to in the preceding paragraph is not able and willing to act as Supervisory Authority, a Conference of Signatory and Contracting States shall be convened to designate another Supervisory Authority.
3. The Supervisory Authority and its officers and employees shall enjoy such immunity from legal and administrative process as is provided under the rules applicable to them as an international entity or otherwise.
4. The Supervisory Authority shall establish a commission of experts from among persons nominated by Signatory and Contracting States having the necessary qualifications and experience, and entrust it with the task of assisting the Supervisory Authority in the discharge of its functions.
5. The first Registrar of the International Registry shall be appointed for a period of five years from the date of entry into force of this Protocol. Thereafter, the Registrar shall be appointed or reappointed at regular five-yearly intervals by the Supervisory Authority.

#### **Article XV – First regulations**

The first regulations shall be made by the Supervisory Authority so as to take effect on the entry into force of this Protocol.

#### **Article XVI – Designated entry points**

1. A Contracting State may at any time designate an entity or entities as the entry point or entry points through which there shall or may be transmitted to the International Registry information required for registration other than registration of a notice of a national interest or of a right or interest under Article 40 of the Convention in either case arising under laws of another State. The various entry points shall be operated at least during working hours in their respective territories.
2. A designation made under the preceding paragraph may permit, but not compel, use of a designated entry point or entry points for information required for registrations in respect of notices of sale.
3. A registration shall not be invalid by reason of being made otherwise than in conformity with any requirement imposed by a Contracting State under paragraph 1.

## **Article XVII — Identification of equipment for registration purposes**

A description of equipment that contains its manufacturer's serial number and such additional information as required to ensure uniqueness is necessary and sufficient to identify the object for the purposes of Article 18(1)(a) of the Convention. The Regulations shall specify the format of the manufacturer's serial number and provide what additional information is required to ensure uniqueness.

## **Article XVIII — Additional modifications of Registry provisions**

1. For the purposes of Article 19(6) of the Convention, the search criterion for equipment shall be its manufacturer's serial number.
2. The fees referred to in Article 17(2)(h) of the Convention shall be determined so as to recover:
  - (a) the reasonable costs of establishing, operating and regulating the International Registry, and the reasonable costs of the Supervisory Authority associated with the performance of the functions, exercise of the powers and discharge of the duties contemplated by Article 17(2) of the Convention; and
  - (b) the reasonable costs of the Depositary associated with the performance of the functions, exercise of the powers and discharge of the duties contemplated by Article 62(2)(c) of the Convention and Article XXXVII(2)(c) to (f) of this Protocol.
3. The centralised functions of the International Registry shall be operated and administered by the Registrar on a twenty-four hour basis.
4. The Registrar shall be liable under Article 28(1) of the Convention for loss caused up to an amount not exceeding the value of the equipment to which the loss relates. Notwithstanding the preceding sentence, the liability of the Registrar shall not exceed 5 million Special Drawing Rights in any calendar year, or such greater amount, computed in such manner, as the Supervisory Authority may from time to time determine by regulations.
5. The preceding paragraph shall not limit the Registrar's liability for damages for loss caused by gross negligence or intentional misconduct of the Registrar and its officers and employees.
6. The amount of the insurance or financial guarantee referred to in Article 28(4) of the Convention shall be not less than the amount determined by the Supervisory Authority to be appropriate, having regard to the prospective liability of the Registrar.
7. Nothing in the Convention shall preclude the Registrar from procuring insurance or a financial guarantee covering events for which the Registrar is not liable under Article 28 of the Convention.

## **Article XIX — Modifications of discharge provisions**

1. Article 25 of the Convention applies:
  - (a) as if references to the debtor in paragraphs 1 and 3 were references to any of the interested persons referred to in Article 1(m)(i) and (iii);

- (b) with paragraph 4 being replaced by the following:  
"4. Where a registration ought not to have been made or is incorrect or should otherwise be discharged in cases not within any of the preceding paragraphs, the person in whose favour the registration was made shall, without undue delay, procure its discharge or amendment after written demand by any of the interested persons referred to in Article 1(m)(i) and (iii) delivered to or received at the address of the person in whose favour the registration was made as stated in the registration"; and
- (c) with the following being added immediately after paragraph 4:  
"5. Where the holder of the interest referred to in paragraph 1 or 3 of this Article or the person in whose favour the registration was made as provided by paragraph 4 has ceased to exist or cannot be found the court may, on the application of any of the interested persons referred to in Article 1(m)(i) and (iii), make an order directed to the Registrar requiring the Registrar to discharge the registration.  
6. Where the intending creditor or intending assignee referred to in paragraph 2 of this Article has ceased to exist or cannot be found the court may, on the application of the debtor, make an order directed to the Registrar requiring the Registrar to discharge the registration."

2. For the purposes of Article 25(2) of the Convention and in the circumstances there described, the holder of a registered prospective international interest or a registered prospective assignment of an international interest shall take such steps as are within its power to procure the discharge of the registration no later than ten calendar days after the receipt of the demand described in such paragraph.

#### **Article XX – Notices of sale**

The regulations shall authorise the registration in the International Registry of notices of sale of equipment. The provisions of this Chapter and of Chapter V of the Convention shall, in so far as relevant, apply to these registrations. However, any such registration and any search made or certificate issued in respect of a notice of sale shall be for the purposes of information only and shall not affect the rights of any person, or have any other effect, under the Convention or this Protocol.

### **CHAPTER IV**

### **JURISDICTION**

#### **Article XXI – Waivers of sovereign immunity**

1. Subject to paragraph 2, a waiver of sovereign immunity from jurisdiction of the courts specified in Article 42 or Article 43 of the Convention or relating to enforcement of rights and interests relating to equipment under the Convention shall be binding and, if the other conditions to such jurisdiction or enforcement have been satisfied, shall be effective to confer jurisdiction and permit enforcement, as the case may be.
2. A waiver under the preceding paragraph must be in writing and contain a description of the equipment as specified in Article V(1).

## **CHAPTER V**

### **RELATIONSHIP WITH OTHER CONVENTIONS**

#### **Article XXII – Relationship with the UNIDROIT Convention on International Financial Leasing**

The Convention on International Interests in Mobile Equipment as applied to mining equipment, agricultural equipment and construction equipment shall supersede the UNIDROIT Convention on International Financial Leasing in respect of the subject matter of this Protocol, as between States Parties to both Conventions.

## **CHAPTER VI**

### **FINAL PROVISIONS**

#### **Article XXIII – Signature, ratification, acceptance, approval or accession**

1. This Protocol shall be open for signature in Pretoria on 22 November 2019 by States participating in the Diplomatic Conference to Adopt a Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Mining, Agricultural and Construction Equipment held at Pretoria from 11 to 22 November 2019. After 22 November 2019, this Protocol shall be open to all States for signature at the Headquarters of the International Institute for the Unification of Private Law (UNIDROIT) in Rome until it enters into force in accordance with Article XXV.
2. This Protocol shall be subject to ratification, acceptance or approval by States which have signed it.
3. Any State which does not sign this Protocol may accede to it at any time.
4. Ratification, acceptance, approval or accession is effected by the deposit of a formal instrument to that effect with the Depositary.
5. A State may not become a Party to this Protocol unless it is or becomes also a Party to the Convention.

#### **Article XXIV – Regional Economic Integration Organisations**

1. A Regional Economic Integration Organisation which is constituted by sovereign States and has competence over certain matters governed by this Protocol may similarly sign, accept, approve or accede to this Protocol. The Regional Economic Integration Organisation shall in that case have the rights and obligations of a Contracting State, to the extent that that Organisation has competence over matters governed by this Protocol. Where the number of Contracting States is relevant in this Protocol, the Regional Economic Integration Organisation shall not count as a Contracting State in addition to its Member States which are Contracting States.



2. The Regional Economic Integration Organisation shall, at the time of signature, acceptance, approval or accession, make a declaration to the Depositary specifying the matters governed by this Protocol in respect of which competence has been transferred to that Organisation by its Member States. The Regional Economic Integration Organisation shall promptly notify the Depositary of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.

3. Any reference to a "Contracting State" or "Contracting States" or "State Party" or "States Parties" in this Protocol applies equally to a Regional Economic Integration Organisation where the context so requires.

#### **Article XXV – Entry into force**

1. This Protocol enters into force between the States which have deposited instruments referred to in sub-paragraph (a) on the later of:

- (a) the first day of the month following the expiration of three months after the date of the deposit of the fifth instrument of ratification, acceptance, approval or accession; and
- (b) the date of the deposit by the Supervisory Authority with the Depositary of a certificate confirming that the International Registry is fully operational.

2. For other States this Protocol enters into force on the first day of the month following the later of:

- (a) the expiration of three months after the date of the deposit of its instrument of ratification, acceptance, approval or accession; and
- (b) the date referred to in sub-paragraph (b) of the preceding paragraph.

#### **Article XXVI – Territorial units**

1. If a Contracting State has territorial units in which different systems of law are applicable in relation to the matters dealt with in this Protocol, it may, at the time of ratification, acceptance, approval or accession, declare that this Protocol is to extend to all its territorial units or only to one or more of them, and may modify its declaration by submitting another declaration at any time.

2. Any such declarations are to be notified to the Depositary and shall state expressly the territorial units to which this Protocol applies.

3. If a Contracting State has not made any declaration under paragraph 1, this Protocol shall apply to all territorial units of that State.

4. Where a Contracting State extends this Protocol to one or more of its territorial units, declarations permitted under this Protocol may be made in respect of each such territorial unit, and the declarations made in respect of one territorial unit may be different from those made in respect of another territorial unit.

5. If by virtue of a declaration under paragraph 1, this Protocol extends to one or more territorial units of a Contracting State:

- (a) the debtor is considered to be situated in a Contracting State only if it is incorporated or formed under a law in force in a territorial unit to which the Convention and this Protocol apply or if it has its registered office or statutory seat, centre of administration, place of business or habitual residence in a territorial unit to which the Convention and this Protocol apply;
- (b) any reference to the location of the object in a Contracting State refers to the location of the object in a territorial unit to which the Convention and this Protocol apply;
- (c) any reference to the administrative authorities in that Contracting State shall be construed as referring to the administrative authorities having jurisdiction in a territorial unit to which the Convention and this Protocol apply; and
- (d) for the purposes of Article XII(4), a dealer is considered to be situated in a Contracting State if it has its place of business or, if it has more than one place of business, its principal place of business, in a territorial unit where the Convention and this Protocol apply.

#### **Article XXVII – Transitional Provisions**

In relation to agricultural equipment, construction equipment and mining equipment Article 60 of the Convention shall be modified as follows:

- (a) replace paragraph 2(a) with the following:
  - “(a) “effective date of this Convention” means in relation to a debtor the latest of the time when:
    - (i) this Convention enters into force;
    - (ii) the State in which the debtor is situated at the time the right or interest is created or arises becomes a Contracting State; and
    - (ii) the Protocol becomes applicable in that State to the equipment which is subject to the pre-existing right or interest.”
- (b) replace paragraph 3 with the following:
  - “3. A Contracting State may in its declaration under paragraph 1 specify a date, not earlier than three years and not later than ten years after the date on which the declaration takes effect, when Articles 29, 35 and 36 of this Convention as modified or supplemented by the Protocol will become applicable, to the extent and in the manner specified in the declaration, to pre-existing rights or interests arising under an agreement made at a time when the debtor was situated in that State. Any priority of the right or interest under the law of that State, so far as applicable, shall continue if the right or interest is registered in the International Registry before the expiration of the period specified in the declaration, whether or not any other right or interest has previously been registered.”
- (c) insert the following paragraph:
  - “4. For the purposes of paragraph 3, a declaration takes effect with respect to a pre-existing right or interest in equipment to which the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Mining, Agricultural and Construction Equipment becomes applicable in that State in accordance with Article XXXV and XXXVI of that Protocol at the time the Protocol becomes applicable to that equipment.”

### **Article XXVIII – Declarations relating to certain provisions**

1. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will apply either or both of Articles VI and XI of this Protocol.
2. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will apply Article IX of this Protocol, wholly or in part. If it so declares, it shall specify the time-period required by Article IX(2).
3. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will apply Article X of this Protocol and, if so, shall specify the types of insolvency proceeding, if any, to which Article X will apply. A Contracting State making a declaration pursuant to this paragraph shall specify the time-period required by Article X.
4. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will apply Article XII.
5. Any declaration made pursuant to this Protocol shall apply to the entirety of the equipment to which this Protocol applies.
6. A Contracting State that makes a declaration in respect of any Alternative provided for in Article VII shall choose the same Alternative regarding the entirety of the equipment to which this Protocol applies.
7. The courts of Contracting States shall apply Article X in conformity with the declaration made by the Contracting State which is the primary insolvency jurisdiction.

### **Article XXIX – Declarations under the Convention**

Declarations made under the Convention, including those made under Articles 39, 40, 50, 53, 54, 55, 57, 58 and 60, shall be deemed to have also been made under this Protocol, unless stated otherwise.

### **Article XXX – Reservations and declarations**

1. No reservations may be made to this Protocol but declarations authorised by Articles II, VII, VIII, XXVI, XXVIII, XXIX and XXXI may be made in accordance with these provisions.
2. Any declaration or subsequent declaration or any withdrawal of a declaration made under this Protocol shall be notified in writing to the Depositary.

### **Article XXXI – Subsequent declarations**

1. A State Party may make a subsequent declaration, other than a declaration made in accordance with Article XXIX under Article 60 of the Convention, at any time after the date on which this Protocol has entered into force for it, by notifying the Depositary to that effect.

2. Any such subsequent declaration shall take effect on the first day of the month following the expiration of six months after the date of receipt of the notification by the Depositary. Where a longer period for that declaration to take effect is specified in the notification, it shall take effect upon the expiration of such longer period after receipt of the notification by the Depositary.

3. Notwithstanding the previous paragraphs, this Protocol shall continue to apply, as if no such subsequent declarations had been made, in respect of all rights and interests arising prior to the effective date of any such subsequent declaration.

#### **Article XXXII – Withdrawal of declarations**

1. Any State Party having made a declaration under this Protocol, other than a declaration made in accordance with Article XXIX under Article 60 of the Convention, may withdraw it at any time by notifying the Depositary. Such withdrawal is to take effect on the first day of the month following the expiration of six months after the date of receipt of the notification by the Depositary.

2. Notwithstanding the preceding paragraph, this Protocol shall continue to apply, as if no such withdrawal of declaration had been made, in respect of all rights and interests arising prior to the effective date of any such withdrawal of declaration.

#### **Article XXXIII – Denunciations**

1. Any State Party may denounce this Protocol by notification in writing to the Depositary.

2. Any such denunciation shall take effect on the first day of the month following the expiration of twelve months after the date of receipt of the notification by the Depositary.

3. Notwithstanding the previous paragraphs, this Protocol shall continue to apply, as if no such denunciation had been made, in respect of all rights and interests arising prior to the effective date of any such denunciation.

4. A subsequent declaration made by a State Party under Article II declaring that the Protocol does not apply to one or more Annexes, shall be deemed a denunciation of the Protocol in relation to that Annex.

#### **Article XXXIV – Review conferences, amendments and related matters**

1. The Depositary, in consultation with the Supervisory Authority, shall prepare reports yearly, or at such other time as the circumstances may require, for the States Parties as to the manner in which the international regime established in the Convention as amended by this Protocol has operated in practice. In preparing such reports, the Depositary shall take into account the reports of the Supervisory Authority concerning the functioning of the international registration system.

2. At the request of not less than twenty-five per cent of the States Parties, Review Conferences of the States Parties shall be convened from time to time by the Depositary, in consultation with the Supervisory Authority, to consider:

(a) the practical operation of the Convention as amended by this Protocol and its effectiveness in facilitating the asset-based financing and leasing of the objects covered by its terms;

- (b) the judicial interpretation given to, and the application made of the terms of this Protocol and the regulations;
- (c) the functioning of the international registration system, the performance of the Registrar and its oversight by the Supervisory Authority, taking into account the reports of the Supervisory Authority; and
- (d) whether any amendments to this Protocol, including the Annexes, or the arrangements relating to the International Registry are desirable.

3. Any amendment to this Protocol under this Article shall be approved by at least a two-thirds majority of States Parties participating in the Conference referred to in the preceding paragraph and shall then enter into force in respect of States Parties which have ratified, accepted or approved such amendment when it has been ratified, accepted or approved by five States Parties in accordance with the provisions of Article XXV relating to its entry into force.

#### **Article XXXV – Adjustments to the Harmonized System codes in the Annexes following a Harmonized System revision**

1. Upon the acceptance of a Harmonized System revision, the Depositary shall consult the World Customs Organization and the Supervisory Authority in relation to any Harmonized System codes listed in the Annexes that might be affected by the revision.

2. Not later than three months after the acceptance of a Harmonized System revision, the Depositary shall send to all Contracting States a notification of the Harmonized System revision. The notification shall state whether any Harmonized System codes in the Annexes will be affected by the revision and shall propose adjustments to the Harmonized System codes in the Annexes that are needed to ensure that the Annexes remain aligned with the Harmonized System and that minimise changes to the application of the Protocol to equipment resulting from the Harmonized System revision. The notification must specify the date by which objections to the Depositary proposal must be made pursuant to paragraph 3.

3. Each adjustment to the Harmonized System codes in the Annexes proposed by a Depositary proposal, if made within the time provided by the preceding paragraph, is deemed to have been adopted by Contracting States unless within nine months after the acceptance of the Harmonized System revision the Depositary receives objections to that proposed adjustment from one-third or more of the Contracting States. An objection must specify each adjustment to which it applies and must apply to the entirety of the adjustment.

4. If the Depositary receives objections to a proposed adjustment from one-third or more of the Contracting States within the period specified in the preceding paragraph, the Depositary shall convene a meeting of Contracting States to consider that adjustment. The Depositary shall endeavour to convene the meeting within three months following the expiration of the period specified in the preceding paragraph.

5. Contracting States participating at a meeting convened under the preceding paragraph shall make every effort to reach agreement by consensus. If no agreement is reached, an adjustment shall only be adopted if it is approved by a two-thirds majority vote of the Contracting States participating and voting at the meeting. Subject to paragraphs 7 and 8, agreements and decisions by the meeting of Contracting States shall be binding on all Contracting States.

6. Following the expiration of the period specified in paragraph 3 or, if applicable, following the conclusion of a meeting of Contracting States pursuant to paragraph 4, the Depositary shall send to all Contracting States a notification that indicates which of the proposed adjustments have been adopted and which have not been adopted. Subject to paragraphs 7 and 8, the adopted adjustments shall enter into force on the later of twelve months from the date the Depositary sends the notification of adopted adjustments to Contracting States and the date of entry into force of the Harmonized System revision.

7. During the implementation period a Contracting State may, by notification received by the Depositary not less than thirty days before expiration of the implementation period, extend the date on which adjustments enter into force in relation to that State for a period of six months. A Contracting State may make successive extensions of the entry into force for six-month periods by notification received by the Depositary not less than thirty days before expiration of the current period.

8. During the implementation period or during any subsequent six-month extension period provided by the preceding paragraph, a Contracting State, by notification received by the Depositary not less than thirty days before expiration of the implementation period or such subsequent period, may identify one or more adjustments to the Harmonized System codes in the Annexes which will not enter into force in relation to that State. A Contracting State that has so notified the Depositary may at any time thereafter withdraw its notification under this paragraph as to one or more adjustments by notification to the Depositary, in which case such adjustment or adjustments shall enter into force in relation to that State thirty days after receipt by the Depositary of the notification.

9. A new Contracting State will have all rights and benefits of Contracting States under this Article, including the rights to object under paragraph 3, participate and vote in a meeting under paragraphs 4 and 5, extend dates under paragraph 7, and send notifications under the preceding paragraph. Notwithstanding the preceding sentence, a new Contracting State has only the time, if any, remaining to other Contracting States for taking any action, under this Article.

10. Subject to Article 60 of the Convention and Article XXVII of this Protocol, any adjustment to the Harmonized System codes in the Annexes under this Article shall not affect rights and interests arising prior to the date the adjustment enters into force.

#### **Article XXXVI – Modifications of the Annexes**

1. This article applies to modifications of the Annexes other than adjustments to the Harmonized System codes in the Annexes governed by Article XXXV.

2. If at any time after the entry into force of this Protocol the Depositary receives a Contracting State proposal, the Depositary shall, at the time provided in paragraph 3 or paragraph 5, send to all Contracting States a notification of the Contracting State proposal. The notification shall identify the Harmonized System codes, if any, that would be affected by the proposal and describe each proposed modification of the Annexes. The notification must specify the date by which objections to the Contracting State proposal must be made pursuant to paragraph 4 or 5.

3. Subject to paragraph 5, at the time the Depositary sends a Depositary proposal to Contracting States pursuant to Article XXXV(2) it shall send to Contracting States a notification of each Contracting State proposal received by the Depositary and not previously sent to Contracting States.

4. Subject to paragraph 5, each modification of the Annexes proposed by a Contracting State proposal referred to in the preceding paragraph is deemed to have been adopted by Contracting States unless within the time specified for objections in Article XXXV(3) the Depositary receives objections to that proposed modification from twenty-five per cent or more of the Contracting States. An objection must specify each modification to which it applies and must apply to the entirety of that modification.

5. In its sole discretion the Depositary may elect to send to Contracting States, at a time other than that specified in paragraph 3, a notification of each Contracting State proposal received by the Depositary and not previously sent to Contracting States. In that case, each modification of the Annexes proposed by the Contracting State proposal or proposals is deemed to have been adopted by Contracting States unless within the time specified in the notification the Depositary receives objections to that proposed modification from twenty-five per cent or more of the Contracting States. The time specified in the notification shall be not less than nine months after the Depositary's receipt of the Contracting State proposal most recently received by the Depositary. An objection must specify each modification to which it applies and must apply to the entirety of that modification.

6. If the Depositary receives objections to a proposed modification from twenty-five per cent or more of the Contracting States within the period specified in paragraph 4 or paragraph 5, the Depositary shall convene a meeting of Contracting States to consider that modification. The Depositary shall endeavour to convene the meeting within three months following the expiration of the period specified in paragraph 4 or paragraph 5.

7. Contracting States participating at a meeting convened under the preceding paragraph shall make every effort to reach agreement by consensus. If no agreement is reached, a modification shall only be adopted if it is approved by a two-thirds majority vote of the Contracting States participating and voting at the meeting. Subject to paragraphs 9 and 10, agreements and decisions by the meeting of Contracting States shall be binding on all Contracting States.

8. Following the expiration of the period specified in paragraph 4 or paragraph 5 or, if applicable, following the conclusion of a meeting of Contracting States pursuant to paragraph 6, the Depositary shall send to all Contracting States a notification that indicates which of the proposed modifications have been adopted and which have not been adopted. Subject to paragraphs 9 and 10, the adopted modifications shall enter into force twelve months from the date the Depositary sends the notification to Contracting States.

9. During the implementation period a Contracting State may, by notification received by the Depositary not less than thirty days before expiration of the implementation period, extend the date on which modifications enter into force in relation to that State for a period of six months. A Contracting State may make successive extensions of the entry into force for six-month periods by notification received by the Depositary not less than thirty days before expiration of the current period.

10. During the implementation period or during any subsequent six-month extension period provided by the preceding paragraph, a Contracting State, by notification received by the Depositary not less than thirty days before expiration of the implementation period or such subsequent period, may identify one or more modifications to the Annexes which will not enter into force in relation to that State. A Contracting State that has so notified the Depositary may at any time thereafter withdraw its notification under this paragraph as to one or more modifications by notification to the Depositary, in which case such modification or modifications shall enter into force in relation to that State thirty days after receipt by the Depositary of the notification.

11. A new Contracting State will have all rights and benefits of Contracting States under this Article, including the rights to object under paragraph 4 or paragraph 5, participate and vote in a meeting under paragraphs 6 and 7, extend dates under paragraph 9, and send notifications under the preceding paragraph. Notwithstanding the preceding sentence, a new Contracting State has only the time, if any, remaining to other Contracting States for taking any action, under this Article.

12. Subject to Article 60 of the Convention and Article XXVII of this Protocol, any modification to the Annexes under this Article shall not affect rights and interests arising prior to the date the modification enters into force.

### **Article XXXVII – Depositary and its functions**

1. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Institute for the Unification of Private Law (UNIDROIT), which is hereby designated the Depositary.

2. The Depositary shall:

- (a) inform all Contracting States of:
  - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;
  - (ii) the date of the deposit of the certificate referred to in Article XXV(1)(b);
  - (iii) the date of entry into force of this Protocol;
  - (iv) each declaration made in accordance with this Protocol, together with the date thereof;
  - (v) the withdrawal or amendment of any declaration, together with the date thereof; and
  - (vi) the notification of any denunciation of this Protocol together with the date thereof and the date on which it takes effect;
- (b) transmit certified true copies of this Protocol to all Contracting States;
- (c) provide the Supervisory Authority and the Registrar with a copy of each instrument of ratification, acceptance, approval or accession, together with the date of deposit thereof, of each declaration or withdrawal or amendment of a declaration and of each notification of denunciation, together with the date of notification thereof, so that the information contained therein is easily and fully available and assist in the performance of any related duties to ensure the proper operation of the Registry;
- (d) inform the Supervisory Authority and the Registrar of any pending processes under Article XXXV or Article XXXVI and of the outcomes of any such processes;
- (e) inform new Contracting States of any pending process under Article XXXV or Article XXXVI;
- (f) perform the functions associated with the amendment of the Annexes, as referred to in Articles XXXIV, XXXV and XXXVI; and
- (g) perform such other functions customary for depositaries.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorised, have signed this Protocol.



DONE at Pretoria, this twenty second day of November, two thousand and nineteen, in a single original in the English and French languages, both texts being equally authentic, such authenticity to take effect upon verification by the Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the consistency of the texts with one another.

**ANNEX 1 — MINING EQUIPMENT**

As consistent with Article II, the Convention shall apply in relation to mining equipment that falls under the following Harmonized System codes in this Annex.

820713: Interchangeable tools for hand tools, whether or not power-operated, or for machine-tools (for example, for pressing, stamping, punching, tapping, threading, drilling, boring, broaching, milling, turning or screw driving), including dies for drawing or extruding metal, and rock drilling or earth boring tools - Rock drilling or earth boring tools -- With working part of cermets

842831: Other lifting, handling, loading or unloading machinery (for example, lifts, escalators, conveyors, teleferics) - Other continuous-action elevators and conveyors, for goods or materials -- Specifically designed for underground use

842911: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Bulldozers and angledozers -- Track laying

842919: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Bulldozers and angledozers -- Other

842920: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Graders and levellers

842951: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Mechanical shovels, excavators and shovel loaders -- Front-end shovel loaders

842952: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Mechanical shovels, excavators and shovel loaders -- Machinery with a 360° revolving superstructure

842959: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Mechanical shovels, excavators and shovel loaders -- Other

843010: Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers - Pile-drivers and pile-extractors

843031: Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers - Coal or rock cutters and tunnelling machinery -- Self-propelled

843039: Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers - Coal or rock cutters and tunnelling machinery -- Other

843041: Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers - Other boring or sinking machinery -- Self-propelled

843049: Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers - Other boring or sinking machinery -- Other

843050: Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers - Other machinery, self-propelled

843061: Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers - Other machinery, not self-propelled -- Tamping on compacting machinery

843069: Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers - Other machinery, not self-propelled -- Other

847410: Machinery for sorting, screening, separating, washing, crushing, grinding, mixing or kneading earth, stone, ores or other mineral substances, in solid (including powder or paste) form; machinery for agglomerating, shaping or moulding solid mineral fuels, ceramic paste, unhardened cements, plastering materials or other mineral products in powder or paste form; machines for forming foundry moulds of sand - Sorting, screening, separating or washing machines

847420: Machinery for sorting, screening, separating, washing, crushing, grinding, mixing or kneading earth, stone, ores or other mineral substances, in solid (including powder or paste) form; machinery for agglomerating, shaping or moulding solid mineral fuels, ceramic paste, unhardened cements, plastering materials or other mineral products in powder or paste form; machines for forming foundry moulds of sand - Crushing or grinding machines

847431: Machinery for sorting, screening, separating, washing, crushing, grinding, mixing or kneading earth, stone, ores or other mineral substances, in solid (including powder or paste) form; machinery for agglomerating, shaping or moulding solid mineral fuels, ceramic paste, unhardened cements, plastering materials or other mineral products in powder or paste form; machines for forming foundry moulds of sand - Mixing or kneading machines -- Concrete or mortar mixers

870130: Tractors (other than tractors of heading 8709) - Track-laying tractors

870192: Tractors (other than tractors of heading 8709) - Other, of an engine power -- Exceeding 18 kW but not exceeding 37 kW

870193: Tractors (other than tractors of heading 8709) - Other, of an engine power -- Exceeding 37 kW but not exceeding 75 kW

870194: Tractors (other than tractors of heading 8709) - Other, of an engine power -- Exceeding 75 kW but not exceeding 130 kW

870195: Tractors (other than tractors of heading 8709) - Other, of an engine power -- Exceeding 130 kW

870410: Motor vehicles for the transport of goods - Dumpers designed for off-highway use

## **ANNEX 2 — AGRICULTURAL EQUIPMENT**

As consistent with Article II, the Convention shall apply in relation to agricultural equipment that falls under the following Harmonized System codes in this Annex.

842449: Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines - Agricultural or horticultural sprayers -- Other

842482: Mechanical appliances (whether or not hand-operated) for projecting, dispersing, or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines - Other appliances -- Agricultural or Horticultural

842911: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Bulldozers and angledozers -- Track laying

842919: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Bulldozers and angledozers -- Other

842920: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Graders and levellers

842930: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Scrapers

842940: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Tamping machines and road rollers

842951: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Mechanical shovels, excavators and shovel loaders -- Front-end shovel loaders

842952: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Mechanical shovels, excavators and shovel loaders -- Machinery with a 360° revolving superstructure

842959: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Mechanical shovels, excavators and shovel loaders -- Other

843049: Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers - Other boring or sinking machinery -- Other

843050: Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers - Other machinery, self-propelled

843210: Agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sports-ground rollers - Ploughs

843221: Agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sports-ground rollers - Harrows, scarifiers, cultivators, weeders and hoes -- Disc harrows

843229: Agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sports-ground rollers - Harrows, scarifiers, cultivators, weeders and hoes -- Other

843231: Agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sports-ground rollers - Seeders, planters and transplanters -- no-till direct seeders, planters and transplanters

843239: Agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sports-ground rollers - Seeders, planters and transplanters -- Other

843241: Agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sports-ground rollers - Manure spreaders and fertiliser distributors -- Manure spreaders

843242: Agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sports-ground rollers - Manure spreaders and fertiliser distributors -- Fertiliser distributors

843320: Harvesting or threshing machinery, including straw or fodder balers; grass or hay mowers; machines for cleaning, sorting or grading eggs, fruit or other agricultural produce, other than machinery of heading 8437 - Other mowers, including cutter bars for tractor mounting

843330: Harvesting or threshing machinery, including straw or fodder balers; grass or hay mowers; machines for cleaning, sorting or grading eggs, fruit or other agricultural produce, other than machinery of heading 8437 - Other haymaking machinery

843340: Harvesting or threshing machinery, including straw or fodder balers; grass or hay mowers; machines for cleaning, sorting or grading eggs, fruit or other agricultural produce, other than machinery of heading 8437 - Straw or fodder balers, including pick-up balers

843351: Harvesting or threshing machinery, including straw or fodder balers; grass or hay mowers; machines for cleaning, sorting or grading eggs, fruit or other agricultural produce, other than machinery of heading 8437 - Other harvesting machinery; threshing machinery -- Combine harvester-threshers

843353: Harvesting or threshing machinery, including straw or fodder balers; grass or hay mowers; machines for cleaning, sorting or grading eggs, fruit or other agricultural produce, other than machinery of heading 8437 - Other harvesting machinery; threshing machinery -- Root or tuber harvesting machines

843359: Harvesting or threshing machinery, including straw or fodder balers; grass or hay mowers; machines for cleaning, sorting or grading eggs, fruit or other agricultural produce, other than machinery of heading 8437 - Other harvesting machinery; threshing machinery -- Other

843360: Harvesting or threshing machinery, including straw or fodder balers; grass or hay mowers; machines for cleaning, sorting or grading eggs, fruit or other agricultural produce, other than machinery of heading 8437 - Machines for cleaning, sorting or grading eggs, fruit or other agricultural produce

843410: Milking machines and dairy machinery - Milking machines

843680: Other agricultural, horticultural, forestry, poultry-keeping or bee-keeping machinery, including germination plant fitted with mechanical or thermal equipment; poultry incubators and brooders - Other machinery

843710: Machines for cleaning, sorting or grading seed, grain or dried leguminous vegetables; machinery used in the milling industry or for the working of cereals or dried leguminous vegetables, other than farm-type machinery - Machines for cleaning, sorting or grading seed, grain or dried leguminous vegetables

870130: Tractors (other than tractors of heading 8709) - Track-laying tractors

870192: Tractors (other than tractors of heading 8709) - Other, of an engine power -- Exceeding 18 kW but not exceeding 37 kW

870193: Tractors (other than tractors of heading 8709) - Other, of an engine power -- Exceeding 37 kW but not exceeding 75 kW

870194: Tractors (other than tractors of heading 8709) - Other, of an engine power -- Exceeding 75 kW but not exceeding 130 kW

870195: Tractors (other than tractors of heading 8709) - Other, of an engine power -- Exceeding 130 kW

870410: Motor vehicles for the transport of goods - Dumpers designed for off-highway use

871620: Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof - Self-loading or self-unloading trailers and semi-trailers for agricultural purposes

### **ANNEX 3 – CONSTRUCTION EQUIPMENT**

As consistent with Article II, the Convention shall apply in relation to construction equipment that falls under the following Harmonized System codes in this Annex.

820713: Interchangeable tools for hand tools, whether or not power-operated, or for machine-tools (for example, for pressing, stamping, punching, tapping, threading, drilling, boring, broaching, milling, turning or screw driving), including dies for drawing or extruding metal, and rock drilling or earth boring tools - Rock drilling or earth boring tools -- With working part of cermets

841340: Pumps for liquids, whether or not fitted with a measuring device; liquid elevators - Concrete pumps

842620: Ships' derricks; cranes, including cable cranes; mobile lifting frames, straddle carriers and works trucks fitted with a crane - Tower cranes

842641: Ships' derricks; cranes, including cable cranes; mobile lifting frames, straddle carriers and works trucks fitted with a crane - Other machinery, self-propelled -- On tyres

842649: Ships' derricks; cranes, including cable cranes; mobile lifting frames, straddle carriers and works trucks fitted with a crane - Other machinery, self-propelled -- Other

842911: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Bulldozers and angledozers -- Track laying

842919: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Bulldozers and angledozers -- Other

842920: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Graders and levellers

842930: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Scrapers

842940: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Tamping machines and road rollers

842951: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Mechanical shovels, excavators and shovel loaders -- Front-end shovel loaders

842952: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Mechanical shovels, excavators and shovel loaders -- Machinery with a 360° revolving superstructure



842959: Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers - Mechanical shovels, excavators and shovel loaders - Other

843010: Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow ploughs and snow-blowers - Pile-drivers and pile-extractors

843031: Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers - Coal or rock cutters and tunnelling machinery -- Self-propelled

843039: Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers - Coal or rock cutters and tunnelling machinery -- Other

843041: Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers - Other boring or sinking machinery -- Self-propelled

843049: Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers - Other boring or sinking machinery -- Other

843050: Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers - Other machinery, self-propelled

843061: Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers - Other machinery, not self-propelled -- Tamping or compacting machinery

843069: Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers - Other machinery, not self-propelled -- Other

847410: Machinery for sorting, screening, separating, washing, crushing, grinding, mixing or kneading earth, stone, ores or other mineral substances, in solid (including powder or paste) form; machinery for agglomerating, shaping or moulding solid mineral fuels, ceramic paste, unhardened cements, plastering materials or other mineral products in powder or paste form; machines for forming foundry moulds of sand - Sorting, screening, separating or washing machines

847420: Machinery for sorting, screening, separating, washing, crushing, grinding, mixing or kneading earth, stone, ores or other mineral substances, in solid (including powder or paste) form; machinery for agglomerating, shaping or moulding solid mineral fuels, ceramic paste, unhardened cements, plastering materials or other mineral products in powder or paste form; machines for forming foundry moulds of sand - Crushing or grinding machines

847431: Machinery for sorting, screening, separating, washing, crushing, grinding, mixing or kneading earth, stone, ores or other mineral substances, in solid (including powder or paste) form; machinery for agglomerating, shaping or moulding solid mineral fuels, ceramic paste, unhardened cements, plastering materials or other mineral products in powder or paste form; machines for forming foundry moulds of sand - Mixing or kneading machines -- Concrete or mortar mixers

847432: Machinery for sorting, screening, separating, washing, crushing, grinding, mixing or kneading earth, stone, ores or other mineral substances, in solid (including powder or paste) form; machinery for agglomerating, shaping or moulding solid mineral fuels, ceramic paste, unhardened cements, plastering materials or other mineral products in powder or paste form; machines for forming foundry moulds of sand - Mixing or kneading machines -- Machines for mixing mineral substances with bitumen

847910: Machines and mechanical appliances having individual functions, not specified or included elsewhere in this Chapter - Machinery for public works, building or the like

847982: Machines and mechanical appliances having individual functions, not specified or included elsewhere in this Chapter - Other machines and mechanical appliances -- Mixing, kneading, crushing, grinding, screening, sifting, homogenising, emulsifying or stirring machines

870130: Tractors (other than tractors of heading 8709) - Track-laying tractors

870192: Tractors (other than tractors of heading 8709) - Other, of an engine power -- Exceeding 18 kW but not exceeding 37 kW

870193: Tractors (other than tractors of heading 8709) - Other, of an engine power -- Exceeding 37 kW but not exceeding 75 kW

870194: Tractors (other than tractors of heading 8709) - Other, of an engine power -- Exceeding 75 kW but not exceeding 130 kW

870195: Tractors (other than tractors of heading 8709) - Other, of an engine power -- Exceeding 130 kW

870410: Motor vehicles for the transport of goods - Dumpers designed for off-highway use

870510: Special purpose motor vehicles, other than those principally designed for the transport of persons or goods (for example, breakdown lorries, crane lorries, fire fighting vehicles, concrete-mixer lorries, road sweeper lorries, spraying lorries, mobile workshops, mobile radiological units) - Crane lorries

870540: Special purpose motor vehicles, other than those principally designed for the transport of persons or goods (for example, breakdown lorries, crane lorries, fire fighting vehicles, concrete-mixer lorries, road sweeper lorries, spraying lorries, mobile workshops, mobile radiological units) - Concrete-mixer lorries

**RESOLUTION 1**

**RELATING TO THE ESTABLISHMENT OF THE PREPARATORY COMMISSION  
FOR THE ESTABLISHMENT OF THE INTERNATIONAL REGISTRY  
FOR MINING, AGRICULTURAL AND CONSTRUCTION EQUIPMENT**

THE DIPLOMATIC CONFERENCE FOR THE ADOPTION OF THE DRAFT PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO MINING, AGRICULTURAL AND CONSTRUCTION EQUIPMENT

HAVING ADOPTED the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Mining, Agricultural and Construction Equipment (the Protocol);

HAVING REGARD to Article XIV of the Protocol;

BEARING IN MIND the Convention on International Interests in Mobile Equipment (the Convention), opened to signature in Cape Town on 16 November 2001;

CONSCIOUS of the need to undertake preparatory work regarding the establishment of the International Registry for mining, agricultural and construction equipment in order to ensure that it is operational by the time the Protocol enters into force;

CONSIDERING the advantages of formulating the policies and procedures as well as adapting the procedures employed in establishing the International Registry for aircraft objects and the International Registry for railway rolling stock in order to facilitate the expeditious establishment of the International Registry for mining, agricultural and construction equipment, and contain the costs thereof to the extent possible;

*RESOLVES:*

TO ESTABLISH, pending the entry into force of the Protocol, a Preparatory Commission to act with full authority as Provisional Supervisory Authority for the establishment of the International Registry for mining, agricultural and construction equipment, under the guidance and supervision of the Governing Council and the General Assembly of UNIDROIT.

Such Preparatory Commission shall be composed of:

- (1) Up to twenty representatives, who shall have the necessary qualifications and experience, appointed by UNIDROIT from those nominated by the following:
  - (a) States or Regional Economic Integration Organisations that have signed, ratified or acceded to the Protocol;
  - (b) Up to seven States from among the States that participated in the Conference (*negotiating States*);
  - (c) Up to seven States nominated by the sponsoring Organisation (UNIDROIT);
- (2) The UNIDROIT Secretariat, as the Secretariat of the Preparatory Commission.

The following may participate as observers to the meetings of the Preparatory Commission:

- (1) The Chair of each of the Commissions, Committees and Working Groups established by the Conference;
- (2) The MAC Working Group;
- (3) The International Registries of the other Protocols;
- (4) The World Customs Organization, the World Bank Group and the Kozolchyk National Law Center (NatLaw).

Other negotiating States and relevant international organisations may also be invited to participate as observers.

THAT all participants in the Preparatory Commission's work shall participate without any financial implications for either the Preparatory Commission or UNIDROIT;

THAT the Preparatory Commission shall have such legal personality as may be necessary;

TO INSTRUCT the Preparatory Commission to carry out, under the guidance and supervision of the Governing Council and the General Assembly of UNIDROIT, the following functions:

- (1) to establish its rules of procedure and methods of work, including the appointment of its chair(s), the setting up of expert committees, and the determination of the place and dates of meetings to carry out its work;
- (2) with a view to guarantee the operability of the International Registry by the time of entry into force of the Protocol, to ensure that the Registrar managing the International Registry be selected in accordance with an objective, transparent and fair selection process, and that all necessary regulations and procedures be prepared and approved, with a target date of two years from the convening of the first meeting of the Preparatory Commission, which is to take place before six months have passed from the adoption of the Protocol;
- (3) to work on other matters relating to the International Registry for mining, agricultural and construction equipment as may be required with a view to ensuring the establishment of the International Registry;
- (4) to enter into a contract with the Registrar that makes provision for the development or testing of the software, the initial fees, the user application process and timelines, as well as other relevant details;
- (5) to ensure the necessary liaison and co-ordination with private industry which will be users of the International Registry; and
- (6) to initiate consultations capable of ensuring effective co-operation with relevant existing national and regional registries;

TO DIRECT the Preparatory Commission to make use, in the carrying out of its functions, to the maximum extent feasible and appropriate, of the prior experience acquired in the establishment and operation of the International Registry for other Protocols;

TO DIRECT the Preparatory Commission to work towards the establishment of the Supervisory Authority;

TO URGE the States participating in the Conference and interested private parties to make available, at the earliest possible date, the necessary start-up funding on a voluntary basis for the tasks of the Preparatory Commission and of UNIDROIT, required under this Resolution and to entrust UNIDROIT, with the task of administering such funds.

**RESOLUTION 2**

**RELATING TO THE ESTABLISHMENT OF THE SUPERVISORY AUTHORITY OF THE  
INTERNATIONAL REGISTRY FOR MINING, AGRICULTURAL AND CONSTRUCTION  
EQUIPMENT**

THE DIPLOMATIC CONFERENCE FOR THE ADOPTION OF THE DRAFT PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO MINING, AGRICULTURAL AND CONSTRUCTION EQUIPMENT

HAVING ADOPTED the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Mining, Agricultural and Construction Equipment (the Protocol);

HAVING REGARD to Article XIV(1) of the Protocol;

MINDFUL THAT the Convention on International Interests in Mobile Equipment (the Convention), opened to signature in Cape Town on 16 November 2001;

IN LIGHT OF the adoption by the Conference of Resolution 1 relating to the establishment of the Preparatory Commission for the establishment of the International Registry for mining, agricultural and construction equipment;

CONSIDERING the active participation in the preparatory work and at the Diplomatic Conference by the observer representing the International Finance Corporation (IFC) of the World Bank Group, and in the light of preliminary consultations with the said international financial institution;

*RESOLVES:*

TO INVITE the governing bodies of the IFC to accept the functions of Supervisory Authority upon or after the entry into force of the Protocol, to take the necessary action in this regard, as appropriate, and to inform the Secretary-General of UNIDROIT accordingly;

TO INVITE the Preparatory Commission, to be established in light of the adoption by the Conference of Resolution 1, to consider the appointment of another international Organisation or entity as Supervisory Authority upon or after the entry into force of the Protocol, in the event that the IFC expressly decides not to become the Supervisory Authority or no express confirmation has been received within 6 months from the adoption of this Protocol;

TO INVITE the Supervisory Authority to establish a Commission of Experts consisting of not more than 15 members appointed by the Supervisory Authority from among persons nominated by the Signatory and Contracting States to the Protocol, having the necessary qualifications and experience, with the task of assisting the Supervisory Authority in the discharge of its functions.

**RESOLUTION 3**

**RELATING TO TECHNICAL ASSISTANCE WITH REGARD TO THE IMPLEMENTATION AND  
USE OF THE INTERNATIONAL REGISTRY FOR MINING, AGRICULTURAL AND  
CONSTRUCTION EQUIPMENT**

THE DIPLOMATIC CONFERENCE FOR THE ADOPTION OF THE DRAFT PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO MINING, AGRICULTURAL AND CONSTRUCTION EQUIPMENT

MINDFUL of the objectives of the Convention on International Interests in Mobile Equipment (the Convention) and the Protocol to the Convention on Matters Specific to Mining, Agricultural and Construction Equipment (the Protocol);

DESIROUS of facilitating the implementation of the Convention and the Protocol as well as the prompt implementation and use of the International Registry for mining, agricultural and construction equipment (the International Registry);

*RESOLVES:*

TO ENCOURAGE all negotiating States, international organisations and private parties, such as the mining, agricultural and construction manufacturing and financial industries, to assist developing States in any appropriate way, including the provision of facilities and the experience necessary to use the International Registry, so as to allow them to benefit from the Convention and the Protocol as soon as possible, and, to this effect, to set up a fund to which contributions shall be made on a voluntary basis and which will function under the authority of the Supervisory Authority.

**RESOLUTION 4**

**RELATING TO THE OFFICIAL COMMENTARY ON THE PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO MINING, AGRICULTURAL AND CONSTRUCTION EQUIPMENT**

THE DIPLOMATIC CONFERENCE FOR THE ADOPTION OF THE DRAFT PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO MINING, AGRICULTURAL AND CONSTRUCTION EQUIPMENT

HAVING ADOPTED the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Mining, Agricultural and Construction Equipment (the Protocol);

MINDFUL of the existing Official Commentaries to the Convention on International Interests in Mobile Equipment and its existing Protocols, as well as their importance as an aid for those called upon to work with these documents;

RECOGNISING the increasing use of commentaries of this type in the context of modern, technical commercial law instruments; and

MINDFUL that the Explanatory Note on the draft Protocol submitted to the Conference (DCME-MAC – Doc. 4 corr.) provides a suitable starting point for the further development of this official commentary;

*RESOLVES:*

TO REQUEST the preparation of an official commentary on the Protocol by the Rapporteur of the Diplomatic Conference, in close co-operation with the UNIDROIT Secretariat, and in co-ordination with the Chair of the Commission of the Whole, the Chairs of the Final Clauses Committee, and the Chairs of the Drafting Committee;

TO REQUEST that the Official Commentary be circulated for comment in draft form among the States and observers that participated in the Conference prior to its publication being authorised; and

TO REQUEST that a revised final version of the Official Commentary be transmitted by the UNIDROIT Secretariat to all negotiating States and participating observers as soon as practicable after the conclusion of the Conference.



**RESOLUTION 5**

**EXPRESSING THE GRATITUDE OF THE CONFERENCE  
TO THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA FOR HOSTING AND  
ORGANISING THE CONFERENCE**

THE DIPLOMATIC CONFERENCE FOR THE ADOPTION OF THE DRAFT PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO MINING, AGRICULTURAL AND CONSTRUCTION EQUIPMENT

HAVING ADOPTED the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Mining, Agricultural and Construction Equipment (the Protocol);

MINDFUL of the dedicated and facilitating role played by the Government of the Republic of South Africa in increasing attendance at the Diplomatic Conference as well as finalising the Protocol;

GRATEFUL to the Government of the Republic of South Africa for having played a substantial role in the planning, preparation and organisation of the Conference;

ACKNOWLEDGING the instrumental overall role of the Government Officials of the Department of International Relations and Cooperation of the Republic of South Africa;

EXPRESSES its deep gratitude and sincere appreciation to the Government of the Republic of South Africa and its officials.