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**PREPARATORY COMMISSION FOR THE
ESTABLISHMENT OF THE INTERNATIONAL REGISTRY
FOR MAC EQUIPMENT PURSUANT TO THE MAC
PROTOCOL**

UNIDROIT 2020
MACPC/2/Doc. 4
Original: English
November 2020

Second session (remote)
10-11 December 2020

**PRELIMINARY DRAFT BASELINE REGULATIONS FOR THE INTERNATIONAL
REGISTRY FOR THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE
EQUIPMENT ON MATTERS SPECIFIC TO MINING, AGRICULTURAL AND
CONSTRUCTION EQUIPMENT**

(prepared by the UNIDROIT Secretariat)

Introduction

1. Resolution 1 of the MAC Protocol Diplomatic Conference Final Act (Pretoria, 22 November 2019) instructed the Preparatory Commission to ensure that the regulations and procedures for the International Registry were prepared and approved with a target date of two years from the first session of the Preparatory Commission.¹
2. To assist the Preparatory Commission, the UNIDROIT Secretariat, in its role as the Secretariat of the Preparatory Commission, prepared a preliminary first draft of the Regulations for the International Registry for the Convention on International Interests in Mobile Equipment on Matters Specific to Mining, Agricultural and Construction Equipment (the "MAC Registry Regulations") which was discussed at the first and second meeting of the Regulations Working Group of the Preparatory Commission. This draft had been prepared by undertaking a comparative analysis of the regulations established under the Aircraft Protocol, the Luxembourg Rail Protocol and Space Protocol. Footnotes in each section identified the corresponding sections from the existing Regulations used to prepare the draft MAC Regulations and explained where sections had to be further adapted to suit the MAC Protocol context. This preliminary draft was prepared in consultation with several international experts.
3. Following the deliberation of the Regulations Working Group, the Secretariat has amended the preliminary draft Regulations. A tracked changes version of these amendments can be found in this document.

¹ Resolution 1 states:

[The Diplomatic Conference instructs the] Preparatory Commission to carry out, under the guidance and supervision of the Governing Council and the General Assembly of UNIDROIT, the following functions: ...

(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;

4. This document has been prepared only as an initial discussion tool to assist the Preparatory Commission, which has within its mandate to make any changes to this as appropriate. The Regulations will be further adjusted once a Supervisory Authority has been appointed and a Registrar has been selected.

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~~May~~ ~~November~~ December 2020

DRAFT REGULATIONS FOR THE INTERNATIONAL REGISTRY

(Article 17(2) (d) of the Convention on International Interests in Mobile Equipment and Article XV² of the MAC Protocol)

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Section 1 AUTHORITY³

These Regulations are issued by the Supervisory Authority pursuant to Article 17(2)(d) of the *Convention on International Interests in Mobile Equipment* ("Convention") and are authorised by the *Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Mining, Agricultural and Construction Equipment* ("Protocol").

Section 2 DEFINITIONS⁴

2.1 Terms defined in the Convention and the Protocol shall have the same meanings in these Regulations. In addition, the following terms shall have the meanings set out below:

2.1.1. "Acting administrator" has the meaning set out in Section 4.1.⁵

2.1.2. "Administrator" means the person with authority to act on behalf of a registry user entity on administrative matters in dealings with the International Registry, including his/her acting administrator. It also includes, in the case of a registry user entity that is a natural person, that person.⁶

2.1.3. "Amendment", unless the context suggests otherwise, means any change in registration information, including any change in the lapse date of a registration, but does not include assignment, subrogation or subordination.

2.1.4. "Authorisation" means an electronic authorisation given by the administrator of a transacting user entity to one of its transacting users or to a professional user to transmit information to the International Registry to effect or consent to a registration on behalf of that transacting user entity.

2.1.5. "Authorised Representative" means a person authorised to effect a registration of an international interest, prospective international interest, or assignment or prospective assignment of any of the foregoing in an agency, trust or other representative capacity.

~~2.1.6. "Authorising entry point" means an entity designated by a Contracting State as contemplated by Section 13.1(a).⁷~~

~~2.1.7.~~ 2.1.6. "Consent" means an electronic consent to a registration.

~~2.1.8.~~ 2.1.7. "Contact information" means, with respect to the entity or natural person to whom such information relates, such entity's or natural person's name, administrator and that administrator's telephone number and electronic address.

³ Section 1 is consistent with Section 1 of the Aircraft Regulations, Rail Regulations and Space Regulations.

⁴ The 27 definitions in Section 2.1 are based upon the 24 Section 2.1 definitions in the Aircraft Regulations, the 20 Section 2.1 definitions in the Rail Regulations and the 18 Section 2.1 definitions in the Space Regulations.

⁵ Section 2.1.1 of the Aircraft Regulations, Rail Regulations and Space Regulations reference the role of "Acting Administrator" in defining "Administrator". It is suggested that it might be clearer to define "Acting Administrator" separately.

⁶ The final sentence of Section 2.1.2 is a newly proposed addition that is not included in any of the existing regulations. As many debtors under the MAC Protocol are likely to be natural persons, this additional language would clarify that a natural-person debtor can be their own administrator and would not need to appoint a separate person for that role.

~~⁷ This definition is based upon Section 2.1.4 of the Aircraft Regulations. Whether it should be adopted in the MAC Protocol Regulations will depend on whether the MAC Registry utilises the Aircraft Registries distinction between "authorising entry points" and "direct entry points" to the Registry.~~

- ~~2.1.9-2.1.8.~~ "Controlled entity" means a business entity, trust or association of any kind, however established, with capacity to be a named party in registrations, where a transacting user entity electronically asserts that it controls, manages or administers that business entity, trust or association.
- ~~2.1.10.~~ ~~"Direct entry point" means an entity designated by a Contracting State as contemplated by Section 13.1(b).⁸~~
- ~~2.1.11-2.1.9.~~ "Direct entry point user" means an official, employee, member or partner of an direct entry point.
- ~~2.1.12-2.1.10.~~ "Entry point" means an entity designated by a Contracting State as contemplated by Section 13-1.
- ~~2.1.13-2.1.11.~~ "Fee Schedule" means a schedule issued by the Supervisory Authority in accordance with section 14.3 and which is in force at the relevant time.
- ~~2.1.14-2.1.12.~~ "Identity information" means the following in respect of the entity or natural person for whom the identifying information is sought:
- (a) the name, principal physical address, and date of birth for a natural person;
 - (b) the name, state of incorporation or formation, and principal physical business address for an entity; and
 - (c) any other information reasonably required by the Registrar.
- ~~2.1.15-2.1.13.~~ "Named party" means the transacting user entity named in a registration.
- ~~2.1.16-2.1.14.~~ "Named representative" means a person named in a registration and acting for others in an agency, trust or other representative capacity in accordance with Article IV of the Protocol.
- ~~2.1.17-2.1.15.~~ "Professional user" means an individual employee, member or partner of a professional user entity.
- ~~2.1.18-2.1.16.~~ "Professional user entity" means a firm, limited liability partnership or corporation or other grouping of persons (such as an internal legal department of a transacting user entity) providing professional services to transacting user entities in connection with the transmission, to the International Registry, of information relating to registrations.
- ~~2.1.19-2.1.17.~~ "Registered information" means the category of registration, together with the information entered in the International Registry to effect such registration pursuant to Sections 5.1(b), (c), (d) and (g), 5.2(a), (b) and (c), 5.3(a) and (c), 5.4(a) and (c), 5.7(a), 5.9(a), (c) and (d), 5.10(a), (c) and (d), 5.12, 5.14(a)(ii), and 5.15.1(d), in each case as applicable to such category of registration, and shall include any correction or discharge of a registration pursuant to Section 5.16. The name and the electronic signature of the registering person, and the contact information of the persons to which the International Registry is required to send notices pursuant to Section 6, shall not be regarded as registered information. For purposes of a registration under Section 5.2, the name of the registry user entity that effects the registration shall be regarded as registered information.
- ~~2.1.20-2.1.18.~~ "Registering person" means the transacting user, professional user or ~~direct~~ entry point user transmitting information to the International Registry to effect a registration.

⁸ ~~This definition is based upon Section 2.1.8 of the Aircraft Regulations. Whether it should be adopted in the MAC Protocol Regulations will depend on whether the MAC Registry utilises the Aircraft Registry's distinction between "authorising entry points" and "direct entry points" to the Registry.~~

~~2.1.21-2.1.19.~~ "Registration" means an interest electronically registered with the International Registry. For the purposes of Sections 4.4, 6 and 13.4, the term has the extended meaning set out in Section 6.1.

~~2.1.22-2.1.20.~~ "Registry user" means a transacting user, a professional user or an ~~an direct~~ entry point user.⁹

~~2.1.23-2.1.21.~~ "Registry user entity" means:

- (a) a transacting user entity;
- (b) a professional user entity; or
- (c) an ~~an direct~~ entry point.

~~2.1.24-2.1.22.~~ "R-NCRI authorisation" means a registrable non-consensual right or interest authorisation that confers the authority to effect or amend the registration that is contemplated by Section 5.2 and Section 5.10.

~~2.1.25-2.1.23.~~ "Searching person" means a person making a search in accordance with Section 7 or 8 of these Regulations.

~~2.1.26-2.1.24.~~ "Transacting user" means an individual employee, member or partner of a transacting user entity or an affiliate of that entity.¹⁰

~~2.1.27-2.1.25.~~ "Transacting user entity" means a legal entity, natural person or more than one of the foregoing acting jointly intending to be a named party in one or more registrations.

2.1.28. The term or terms:

- (a) "Procedures" has the meaning set out in Section 16.1; and
- (b) "priority search", "priority search certificate", "informational search", "informational search listing", "Contracting State search", "Contracting State search certificate", "registry user entity search" and "self-search" have the meanings set out in Section 8.

Section 3 GENERAL PROVISIONS

3.1 The International Registry is established as the facility for effecting and searching registrations under the Convention and the Protocol.¹¹

3.2 Since the International Registry merely provides notice of registrations, the facts underlying any such registration or registered interest shall determine whether it falls within the scope of the Convention and the Protocol. Without limiting the foregoing, registrations of pre-existing rights and interests or assignment thereof shall have no legal effect under the Convention and the Protocol, except where, by virtue of a declaration under Article 60(3) of the Convention, registration thereof is required. The contents of this Section 3.2 shall be prominently displayed by the International Registry as a general cautionary note on its website. Neither this Section, nor the

⁹ The definition of "Registry user" is referenced under the definition of "Registry user entity" in Section 2.1.17 of the Aircraft Regulations, Section 2.1.13 of the Rail Regulations and Section 2.1.15 of the Space Regulations. It is suggested that it would be clearer to define "Registry user" in a separate section.

¹⁰ The definition of "Transacting user" is referenced under the definition of "Transacting user entity" in Section 2.1.22 of the Aircraft Regulations, Section 2.1.19 of the Rail Regulations and Section 2.1.18 of the Space Regulations. It is suggested that it would be clearer to define "Transacting user" in a separate section.

¹¹ Section 3.1 is consistent with Section 3.1 in the three existing Regulations.

- technical function of the Registry, shall relieve any party making a registration that ought not to have been made or is incorrect, from liability under applicable law.¹²
- 3.3 The Registrar shall perform the functions specified in the Convention, the Protocol, these Regulations and the Procedures.¹³
- 3.4 The International Registry shall be accessible 24 hours a day, 7 days a week, except if precluded by maintenance performed outside peak periods, or technical or security problems, as set out in the Procedures.¹⁴
- 3.5 The Registrar shall not undertake other operations or responsibilities nor permit other parties to have access to or use the facilities of the International Registry without the prior written consent of the Supervisory Authority.¹⁵
- 3.6 Technical support shall be provided to registering persons, searching persons and administrators by a help desk of the International Registry, which shall be available during times set out in the Procedures.¹⁶
- 3.7 The International Registry may be used for no other purpose than that set forth in Sections 3.1 and 3.2, unless approved in advance by the Supervisory Authority and subject to the terms of that approval.¹⁷
- 3.8 Information obtained from or through the International Registry about an entity or natural person shall not be used for marketing or promotional purposes or other commercial purposes unrelated to the use of the International Registry.¹⁸
- 3.9 The Registrar may collect and store transaction, technical and payment logs necessary for the efficient and secure operation of the International Registry.¹⁹

¹² Section 3.2 is consistent with Section 3.2 in the three existing Regulations and adopts the drafting of the Rail Regulations.

¹³ Section 3.3 is consistent with Sections 3.3 of the Aircraft Regulations and Space Regulations and is addressed in part in Section 3.4 of the Rail Regulations.

¹⁴ Section 3.4 is consistent with Sections 3.4 of the Aircraft Regulations and Space Regulations, and Section 3.3 of the Rail Regulations. Section 3.3 of the Rail Regulations include an additional sentence specifying the language of the Registry. This issue is dealt with in Section 7.2 of the Aircraft Registry Procedures, and the Space Regulations also contemplate addressing the Registry language in the Procedures, as there is not yet clarity on the Space Registrar's facilities and location. At this stage, it is suggested that the MAC Protocol follow the Aircraft Regulations and Space Regulations and defer this issue to the Registry Procedures.

¹⁵ Section 3.5 is consistent with the second sentence of Section 3.4 of the Rail Regulations, but does not appear to have a corresponding provision in the Aircraft Regulations or Space Regulations.

¹⁶ Section 3.6 is consistent with Section 3.5 of the Space Regulations. Section 3.5 of the Aircraft Regulations instead provides that technical support "shall be available 24 hours a day, 7 days a week, via telephone and/or email, as set out in the Procedures". Section 3.5 of the Rail Procedures provides that technical support "shall be available during the Registrar's normal business hours (or otherwise as may be agreed between the Supervisory Authority and the Registrar), via telephone and/or fax, and/or email or otherwise, as set out in the Procedures".

¹⁷ Section 3.7 is consistent with Section 3.6 of the three existing Regulations.

¹⁸ Section 3.8 is consistent with Section 3.7 of the three existing Regulations.

¹⁹ Section 3.9 is consistent with Section 3.8 of the Aircraft Regulations, which does not appear to have a corresponding provision in the Rail Regulations or Space Regulations.

Section 4 ACCESS TO THE INTERNATIONAL REGISTRY

4.1 No registry user, registry user entity or administrator of that entity shall have access to the International Registry unless that entity and administrator are first approved as such by the Registrar and are otherwise in compliance with these Regulations and the Procedures. For the purposes of the preceding sentence, such approval shall be given when the Registrar reasonably concludes, without undertaking specific legal analysis:

- (a) that such entity and administrator are who they claim to be; and
- (b) on the basis of information submitted, that the latter is entitled to act as administrator of the former,

in each case, following the standards and procedures set out in the Procedures. The foregoing requirement is not applicable to a searching person.

No administrator of a transacting user entity shall be entitled to register or amend the registration of a registrable non-consensual right or interest or issue an R-NCRI authorisation unless that administrator is first approved by the Registrar for that purpose. Such approval shall be given when the Registrar reasonably concludes, without undertaking specific legal analysis, that the administrator has the authority from his/her transacting user entity to make the certification and agreement required by Sections 5.2(d) and (f), respectively.²⁰

In connection with the foregoing and Sections 5, 6 and 7, the Registrar is entitled to collect identity information and contact information from each registry user entity. Each registry user entity may elect to exclude from the information generated by a search under Section 8.6 its physical address and administrator's telephone number, and in the case of a natural person, his/her date of birth.²¹

An administrator from time to time, for periods not exceeding three (3) months, electronically delegate his/her powers to an acting administrator meeting the requirements of Section [XX]²² of the Procedures.

A requested change to contact information or identity information may be made after the Registrar reasonably concludes that such requested change is accurate.²³

4.2 No registry user shall have access to the International Registry unless that user is the administrator or is first electronically approved as such by the administrator of the subject registry user entity and is otherwise in compliance with these Regulations and the Procedures. No approved registry user shall be entitled to transmit information to the International Registry to effect a registration unless that user has

²⁰ This paragraph is consistent with the equivalent paragraphs in Section 4.1 of the Aircraft Regulations and Rail Regulations but does not appear to have a corresponding provision in the Space Regulations.

²¹ This paragraph is consistent with the equivalent paragraphs in Section 4.1 of the Aircraft Regulations and Space Regulations, but does not appear to have a corresponding provision in the Rail Regulations.

²² This paragraph is consistent with its equivalent paragraph in Section 4.1 of the Aircraft Regulations, whereas the equivalent paragraphs in Section 4.1 of the Rail Regulations and Space Regulations do not identify the specific section of the Procedures.

²³ This paragraph is consistent with its equivalent paragraph in Section 4.1 of the Aircraft Regulations, whereas the equivalent paragraphs in Section 4.1 of the Rail Regulations and Space Regulations have different formulations:

Rail Regulations: *A requested change to the electronic contact details of an administrator or other registry user may be made after the Registrar reasonably concludes that such requested change is authentic.*

Space Regulations: *A requested change to the contact information of an administrator or other registry user may be made after the Registrar reasonably concludes that such requested change is authentic.*

first received authorisation to do so. For the purposes of the preceding sentences, such electronic approval and authorisation may be given at the sole discretion of the relevant administrator, may be revoked by such administrator at any time, and may be renounced by the registry user at any time. The administrator of a professional user entity may renounce the authorizations granted to all the users of that entity on their behalf.²⁴

4.2.1. No guest user shall have access to the International Registry unless that user first provides a valid electronic address at which he/she may be contacted and which shall be automatically verified.²⁵

4.3 Notwithstanding Sections 4.1 and 4.2:²⁶

- (a) the administrator of a transacting user entity approved by the Registrar may electronically approve a controlled entity for the purposes of being named in registrations upon the payment of the fee provided for in the Fee Schedule and confirmation by that administrator that such transacting user controls, manages or administers such controlled entity;²⁷
- (b) upon such approval, the rights, powers and obligations of the administrator of the approving transacting user entity and its transacting users, respectively, shall apply equally to the approved controlled entity;
- (c) the International Registry may provide a facility whereby a controlled entity approved pursuant to Section 4.3(a) may be converted into a transacting user entity upon compliance with Section 4.1, including the appointment and approval of an administrator and the payment of applicable fees pursuant to the Procedures. Upon completion of the actions set forth in Section 4.1 with respect to such controlled entity, including approval by the Registrar:
 - (i) such controlled entity shall cease to be a controlled entity and shall henceforth be a transacting user entity; and
 - (ii) the administrator of such transacting user entity shall thereupon have all rights, powers and obligations under these Regulations including, but not limited to, the right to revoke all previously approved registry user authorisations; and
- (d) the International Registry may provide a facility whereby the control of a controlled entity may be transferred from one transacting user entity to another transacting user entity. Upon acceptance of the transfer of a controlled entity, the controlled entity will cease to be controlled by its initial approving administrator and the rights, powers and obligations of the administrator of the accepting transacting user entity shall apply to the transferred controlled entity. The administrator of the accepting transacting user entity shall thereupon have all the rights, powers and obligations of an administrator under these Regulations, including, but not limited to, the right to revoke all previously approved registry user authorisations.

²⁴ This paragraph is consistent with the equivalent paragraphs in Section 4.1 of the three existing Regulations, aside from the final sentence of the paragraph which is only found in the Aircraft Regulations.

²⁵ Section 4.2.1 is consistent with Section 4.2.1 of the Aircraft Regulations. There is no equivalent provision in the Rail Regulations or Space Regulations.

²⁶ Section 4.3 is consistent with Section 4.3 of the Aircraft Regulations and Rail Regulations. Section 4.3 has been omitted from the Space Regulations.

²⁷ Section 4.3.1(a) follows the Rail Regulations in referring to a "Fee Schedule", whereas the Aircraft Regulations refer to "the fee set out in Table 1 of the Appendix to the Procedures".

- 4.4. Subject to these Regulations and in accordance with the Procedures, a registration may only be effected, with an authorisation, by a registering person, on behalf of the transacting user entity, which is a named party required or permitted to effect that registration under Article 20 of the Convention.²⁸ A registration or transfer of a right to consent to the discharge of a registration is valid if it is effected by a natural person who has been given the power to do so by a registry user authorised to effect such registration or such transfer of the right to consent to the discharge. The foregoing shall not apply in respect of a registration transmitted directly by an ~~an direct~~-entry point, which shall be made in accordance with Section 13.4.²⁹
- 4.5 A searching person shall comply with these Regulations and the Procedures.

Section 5 INFORMATION REQUIRED TO EFFECT REGISTRATION³⁰

Registration of an international interest, a prospective international interest or a notice of national interest³¹

- 5.1. The information required to effect the registration of an international interest, a prospective international interest, or a notice of a national interest³² is:
- (a) the [electronic signature]³³ of the registering person;
 - (b) the name of each of the named parties;
 - (c) the following information identifying the ~~object of mining, agricultural or construction equipment~~:³⁴
 - (i) ~~{the ISO standard PIN number, or otherwise the manufacturer's own alphanumeric serial number, assigned to it the object by the manufacturer, including an ISO standard PIN number, if used by the~~

²⁸ Section 4.4 of the Aircraft Regulations additionally refers to the Article III of the Aircraft Protocol and Section 4.4 of the Space Regulations additionally refers to Article IV of the Space Protocol, as these articles apply the Protocols to sales. The MAC Regulations follow the Rail Regulations as neither the Rail Protocol nor MAC Protocol apply to sales.

²⁹ The final sentence of Section 4.4 is consistent with Section 4.4 of the Aircraft Regulations and Space Regulations, but is not contained in the Rail Regulations, as the Rail Regulations do not distinguish between direct and authorising entry points.

³⁰ Section 5 has generally been modelled on the Section 5 of the Aircraft Regulations, although it has been restructured for ease of comprehension. The MAC Regulations do not currently include a provision allowing for a "closing room" facility (Section 5.21 of the Aircraft Regulations).

³¹ Section 5.1 is generally consistent with Section 5.3 of the three existing Regulations.

³² The Aircraft Regulations address the registration of national interests in a separate section (Section 5.20), whereas the approach taken in the MAC Regulations is consistent with the Section 5.3 of the Rail Regulations and Space Regulations.

³³ The Preparatory Commission may wish to consider whether the term "electronic signature" could be changed to a more technologically neutral term. "Electronic signature" is not currently defined in Section 2.

³⁴ Article XVII of the MAC Protocol provides:

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.

Each of the three existing Regulations have different criteria for the identification of equipment for registration purposes. The criteria in Section 5.1(c) will have to be further discussed and developed by the Preparatory Commission, in consultation with the private sector.

~~manufacturer as the serial number for the item of equipment, in the following format []; and~~

(ii) ~~If an~~ If the object does not have an ISO standard PIN number is not available as contemplated by subparagraph (i), all of the following:

- a. the brand name for the equipment, if unavailable, the name of the manufacturer;
 - b. the manufacturer's generic model designation ~~and descriptive name for the equipment;~~ and or
 - c. [such other descriptive information about the equipment as is required to ensure uniqueness of the equipment;]
- (d) the lapse date of the registration, if the registration is to lapse prior to a discharge;
 - (e) in the case of an international interest or a prospective international interest, the consent of the named parties, given under an authorisation;
 - (f) the electronic addresses of the persons to which the International Registry is required to send information notices pursuant to Section 6;
 - (g) if the named parties include more than one creditor, the name of the creditor who is to hold the sole right to consent to the discharge of that registration.

Registration of an R-NCRI³⁵

5.2 The information, certification, documents and agreement required to effect the registration of an R-NCRI to which Article 40 of the Convention applies are:

- (a) the information referred to in Sections 5.1(a), (b), (c), (d), (f) and (g), including, in the case of Section 5.1(f), the electronic address of the primary obligor with respect to the obligation that is secured by the R-NCRI;
- (b) the name of the Contracting State under whose laws the R-NCRI has been conferred;
- (c) the category of registrable non-consensual right or interest, as listed in the declaration of the Contracting State specified in Section 5.2(b), within which the R-NCRI being registered falls;
- (d) the certification of the party named in the registration as the holder of the R-NCRI to which the registration relates, that (i) the R-NCRI has been validly conferred under the laws of the Contracting State specified in Section 5.2(b), and (ii) all of the registration information being provided to effect the registration is accurate and complete;³⁶
- (e) documentary evidence pertaining to the R-NCRI, in electronic format; and³⁷
- (f) the agreement of the party named in the registration as the holder of that R-NCRI that by effecting such registration it submits itself to the jurisdiction of

³⁵ Section 5.2 is generally consistent with Section 5.4 of the Aircraft Regulations and Section 5.6 of the Rail Regulations. Under the Space Regulations, the registration of R-NCRI is dealt with in Section 5.3 together with the registration of international interests.

³⁶ Section 5.2(d) contains the additional wording "and complete", as consistent with Section 5.4(d) of the Aircraft Regulations but is not contained in Section 5.6(d) of the Rail Regulations.

³⁷ Section 5.2(e) is consistent with Section 5.4(e) of the Aircraft Regulations. Section 5.6(e) of the Rail Regulations utilise a different formulation: *documentary evidence submitted in electronic format of the registrable non-consensual right or interest being registered.*

the courts of the place in which the Registrar has its centre of administration in relation to legal action under Article 44 of the Convention with regard to the registration, and that it shall be liable to the Registrar for all costs incurred by the Registrar arising out of the legal action unless the validity of the registration is upheld.

The registering person of a registrable non-consensual right or interest registration must either hold, or be the administrator that is entitled to issue, an R-NCRI authorisation.³⁸

Registration of a notice of sale³⁹

5.3 The information required to effect the registration of a notice of sale, which shall be subject to Article XX of the Protocol, is:

- (a) the information referred to in Sections 5.1(a), (b), (c) and (f); and
- (b) the consent of the named parties, given under an authorisation.

Registration of an assignment⁴⁰

5.4 The information required to effect the registration of the assignment of an international interest, the prospective assignment of an international interest, or the assignment of a registrable non-consensual right or interest is:

- (a) the information referred to in Sections 5.1(a), (b), (c), (f) and (g);⁴¹
- (b) the consent of the named parties, given under an authorisation; and
- (c) if the interest besting assigned is a registered interest:
 - (i) the file number of the registration relating to that interest (in the case of the initial assignment); or
 - (ii) the file number of the registered assignment by which the assignor acquired its rights in that registered interest (in the case of all subsequent assignments); and
- (d) if the interest besting assigned is not a registered interest:

³⁸ Section 5.4.1 of the Aircraft Regulations provides additional rules to Section 5.4, in relation to the provision of documentary evidence by the Registrar to different parties. The Preparatory Commission is invited to discuss whether this section should also be reflected in Section 5.2 of the MAC Regulations:

5.4.1 The Registrar shall provide a copy of the documentary evidence submitted in connection with the registration of an R-NCRI as regards an object to any of the following upon request:

(a) the primary obligor identified in that registration;

(b) the holder of any other registered right or interest or the buyer in a registered sale relating to that object; or

(c) any other person or entity that substantiates a potential adverse effect as a result of that registration to the reasonable satisfaction of the Registrar.

The foregoing shall not apply to the extent, in the Registrar's view, such provision of documentary evidence is prevented by applicable law.

³⁹ Section 5.3 is modelled upon Section 5.7 of the Rail Regulations, as Article XX of the MAC Protocol and Article XVII of the Rail Protocol allow for the registration of notices of sale. Section 5.5 of the Aircraft Regulations and Section 5.4 of the Space Regulations instead allow for the registration of sales and prospective sales.

⁴⁰ Section 5.4 is consistent with Section 5.6 of the Aircraft Regulations, Section 5.8 of the Rail Regulations and Section 5.5 of the Space Regulations.

⁴¹ Section 5.8(a) of the Rail Regulations use the term "identification data" rather than "information". The MAC Regulations currently use "information", as consistent with Section 5.6(a) of the Aircraft Regulations.

- (i) a description of the interest assigned and the original debtor thereunder, using the format prescribed by the Procedures (in the case of the initial assignment of an unregistered interest); or
- (ii) the file number of the registered assignment by which the assignor acquired its rights in that registered interest (in the case of all subsequent assignments).

[Registration of a block assignment⁴²

5.5 The International Registry may provide a facility permitting the registration of all assignments included in a "block assignment registration request". A "block assignment registration request" shall include:

- (a) an electronic certification by the assignor that all of the underlying interests evidenced by registrations on the International Registry in which it is a named party have been assigned to the assignee; and
- (b) a consent thereto given by the assignee,
each given under an authorisation.]

Registration of a subordination⁴³

5.6 The information required to effect the registration of a subordination of an international interest, an assignment and prospective assignment of an international interest, a prospective international interest, a national interest, an interest acquired by subrogation, an R-NCRI, the interest of a lessee under a lease, or the interest of a buyer under a conditional sale is:

- (a) the file number of the registration relating to the interest being subordinated; the information referred to in Sections 5.1 (a), (b), (c), (f) and (g), and, for the purposes of the foregoing reference to Section 5.1 (b) and for the purposes of Section 5.9 (b), the "named parties" shall be the registry user entities subordinating their interest and benefiting from that subordination;
- (b) the consent of the named party whose interest is being subordinated, given under an authorisation;
- (c) if the interest being subordinated or benefiting from the subordination is a registered interest, and has not been assigned or acquired by subrogation, the file number relating to each such interest;
- (d) if the interest being subordinated or benefiting from the subordination is a registered interest that has been assigned, the file number of the registered assignment by which the party granting the subordination acquired its rights in that registered interest and, if applicable, the file number of the registered assignment by which the party benefiting from the subordination acquired its rights in the interest benefiting from the subordination;

⁴² Section 5.5 is consistent with Section 5.7 of the Aircraft Regulations, Section 5.9 of the Rail Regulations and Section 5.6 of the Space Regulations.

⁴³ Section 5.6 is consistent with Section 5.9 of the Aircraft Regulations, Section 5.9 of the Rail Regulations and Section 5.8 of the Space Regulations. Section 5.9 of the Rail Regulations has an additional requirement: (c) *the file number of the registration of the interest benefiting from the subordination.*

- (e) if the interest being subordinated or benefiting from the subordination is a registered interest that was acquired by subrogation, the file number of the registered subrogation by which the party granting the subordination acquired its rights in that registered interest and, if applicable, the file number of the registered subrogation by which the party benefiting from the subordination acquired its rights in the interest benefiting from the subordination; and
- (f) if the interest being subordinated or benefiting from the subordination is not a registered interest, a description of such interest and the original debtor thereunder, using the format prescribed by the Procedures.

Registration of a subrogation⁴⁴

- 5.7 The information required to effect the registration of the acquisition of an international interest through subrogation is:
- (a) the information referred to in Sections 5.1 (a), (b), (c) and (f);
 - (b) the consent of the subrogee, given under an authorisation;
 - (c) if the interest being acquired by subrogation is a registered interest, the file number of the registration relating to that interest (in the case of the initial acquisition by subrogation of a registered interest), or if such interest has been assigned, the file number relating to such assignment; and
 - (d) if the interest being acquired by subrogation is not a registered interest, a description of the interest acquired by subrogation and the original debtor thereunder, using the format prescribed by the Procedures, or if such interest has been assigned, the file number relating to such assignment.

Registration of a pre-existing right or interest⁴⁵

- 5.8 The information required to effect the registration of a pre-existing right or interest to which Article 60 of the Convention applies is:
- (a) the information referred to in Sections 5.1 (a), (b), (c), (d), (f) and (g);
 - (b) the name of the Contracting State under whose laws the pre-existing right or interest was constituted; and
 - (c) the certification of the party named in that registration as the holder of the pre-existing right or interest to which the registration relates, that (i) the pre-existing right or interest has been validly conferred under the laws of the Contracting State specified in Section 5.8 (b), and (ii) all of the registration information being provided to effect the registration is accurate and complete.

⁴⁴ Section 5.7 is consistent with Section 5.19 of the Aircraft Regulations, Section 5.22 of the Rail Regulations and Section 5.17 of the Space Regulations.

⁴⁵ Section 5.8 is modelled on Section 5.10 of the Aircraft Regulations. The Space Regulations do not have a corresponding provision as Article XL of the Space Protocol disapplies Article 60 of the Convention in relation to Space Assets (although Section 5.9 of the Space Regulations does address the registration of a sale or interest arising before the effective date of the Convention). Section 5.10 of the Rail Regulations address pre-existing rights in a different manner:

Notwithstanding Sections 5.3 (e) and 5.7 (b), the information needed to effect the registration of a pre-existing right or interest required by virtue of a declaration under Article 60 (3) of the Convention (as amended by Article XXVI of the Protocol) need not include the consent of the debtor, assignor or person subordinating the right or interest. but shall otherwise include all of the information specified for the applicable category of the registration that is being registered.

Amending a registration (other than an R-NCRI)⁴⁶

- 5.9 Subject to Section 5.11, the information required to amend a registration (other than a registration of an R-NCRI) is:⁴⁷
- (a) the information referred to in Section 5.1(a), (b), (c) and (f);
 - (b) the consent of the named parties that consented to the registration to be amended and, where a right of consent to discharge a registration has been transferred, the consent of the party having this right in place of the immediate transferor, in each case given under an authorisation;
 - (c) the file number of the registration to be amended; and
 - (d) the amendments to be made.

Amending a registration of an R-NCRI⁴⁸

- 5.10. Subject to Section 5.11, the information required to amend a registration of an R-NCRI is:
- (a) the information referred to in Section 5.2(a);
 - (b) the file number of the registration to be amended;
 - (c) the amendments to be made; and
 - (d) the certification required by Section 5.2(d).

The registering person of an amendment of an R-NCRI registration must either hold, or be the administrator that is entitled to issue, an R-NCRI authorisation.

Rules for amendments⁴⁹

- 5.11 The following shall apply in respect of amendments to and discharges of amendments to registrations:

⁴⁶ Section 5.9 is consistent with Section 5.11 of the Aircraft and Rail Regulations and Section 5.10 of the Space Regulations.

⁴⁷ The first sentence of the corresponding provisions in the three existing Regulations includes the following additional text: "*or to amend information contained in an assignment, subrogation or subordination*". It is suggested that this language could be omitted from the MAC Regulations on the basis that amending such information would still fall under the scope of amending a registration.

⁴⁸ Section 5.10 is consistent with Section 5.12 of the Aircraft Regulations and Section 5.14 of the Rail Regulations. The Space Regulations do not appear to have a corresponding provision.

⁴⁹ Section 5.11 is consistent with Section 5.13 of the Aircraft Regulations, Section 5.15 of the Rail Regulations and Section 5.11 of the Space Regulations. Section 5.15 of the Rail Regulations has several additional parts:

(d) *a registration of a notice of sale may be discharged by the buyer or the seller with the consent of the other given under an authorization, provided that:*

(i) such discharge shall be effective only from the time it is made and shall have no effect on the priority of any other registration; and

(ii) the original registration and its discharge shall appear on all priority search certificates relating to the subject item of railway rolling stock

(e) *a change to a user capacity statement or the contact details of a registry user are outside of Section 5.13, and may be made after the Registrar reasonably concludes that such requested change is accurate.*

5.16 *The consent requirements of this Section 5 shall be satisfied in the case of a registration initiated by an entry point in accordance with Article XIII (1) of the Protocol, when the International Registry receives the consent from all parties whose consent is required under the Convention, the Protocol, and these Regulations.*

5.17 *Any registration may specify that multiple named parties hold or have granted an interest evidenced thereby.*

- (a) registration of an amendment of information referred to in Section 5.1(c) or a change of a category of registration shall be treated as a new registration in respect of the object or category to which the amending registration refers, with priority ranking from the time the amending registration is complete. The named parties to such amendment shall consent to the discharge of the previous registration under an authorisation, which shall be effected automatically;
- (b) registration of an amendment in which the information referred to in Section 5.1(b) has been changed shall require the consent of the named parties that consented to that registration and of the named party to be specified in the amended registration, each given under an authorisation;
- (c) registration of an amendment in which the information referred to in Section 5.1(d) has been changed shall have no effect on the priority of the original registration for the amended duration of that registration. The foregoing is without prejudice as to whether a new underlying interest has been constituted that requires registration under the Convention; and
- (d) when a registration is discharged, the party consenting to that discharge shall be deemed to consent to the discharge of all amendments to that registration, which shall be effected automatically.

The consent requirements of Section 5.11(a) and (b) shall, in the case of an amendment of a registration of an R-NCRI, be limited to the party named in the registration as the holder of such registrable non-consensual right or interest.

Registering fractional or partial interests⁵⁰

5.12 Any registration may specify that:

- (a) it covers a fractional or partial interest in mining, agricultural or construction equipment and, if so, the extent of such interest; and/or
- (b) multiple named parties hold or have granted an interest evidenced thereby.

Rules for fractional or partial interests⁵¹

5.13 With respect to an interest referred to in Section 5.12 (a):

- (a) an increase or decrease to such interest arising by virtue of a sale or an assignment of an international interest shall be registered as such in accordance with Section 5.1 or 5.4,⁵² respectively; and
- (b) a decrease in such an interest arising by virtue of payment of a secured obligation shall be partially or wholly discharged in accordance with Section 5.15.

⁵⁰ Section 5.12 is consistent with Section 5.14 of the Aircraft Regulations, Section 5.18 of the Rail Regulations and Section 5.12 of the Space Regulations.

⁵¹ Section 5.13 is consistent with Section 5.15 of the Aircraft Regulations, Section 5.19 of the Rail Regulations and Section 5.14 of the Space Regulations.

⁵² The Aircraft Regulations and Space Regulations refer to the Sections on (i) registration of a sale or prospective sale (ii) registration of an assignment. The corresponding provision in the Rail Regulations references the section on registration of a notice of sale. The MAC Regulations currently follow the Aircraft Regulations approach, however this issue might require further consideration.

Entity name change⁵³

- 5.14 The International Registry will provide a facility for notice of a change of the name of a transacting user entity, where set out in a "name change request". For purposes of the foregoing, a "change of name" means either that the transacting user entity has changed its name, that any rights or interests of the transacting user entity reflected on the International Registry have become vested in another transacting user entity as a result of a merger, a change in entity form or otherwise by operation of law, or that a correction is required due to an error in its name. In such a case:
- (a) the information required to submit a name change notification to the International Registry is:
 - (i) the name currently shown on the International Registry for the entity which is to be changed, and its other identity information;
 - (ii) the name which is to supersede the name being changed, and in any case where rights and interests reflected on the International Registry have vested in a different transacting user entity, the corresponding entity's other identity information and contact information; and
 - (iii) the name and electronic signature of the relevant transacting user entity and a statement on whose behalf that person is acting, and in any case where rights and interests reflected on the International Registry have vested in a different transacting user entity:
 - (A) the name and electronic signature of such other transacting user entity and a statement on whose behalf that person is acting; and
 - (B) the election specified in Section 5.14(c)(ii)(B);
 - (b) the Registrar shall confirm that a name change notification request satisfies the requirements of this Section 5.14 following the standard set out in Section 4.1, and a name change shall take effect on the later of such confirmation by the Registrar and completion of the actions required in Section 5.14(a)(iii);
 - (c) when a name change takes effect:
 - (i) all rights and interests reflected on the International Registry in which the transacting user entity specified in Section 5.14(a)(i) is a named party shall, without amending registered information or registering an assignment of such rights and interests, be annotated to advise of the change of name, such annotation to be included in all priority search certificates; and
 - (ii) in any case where rights and interests reflected on the International Registry have vested in a different transacting user entity:
 - (A) the transacting user entity in which such rights and interests have vested shall retain its status as a transacting user entity for the purposes of the International Registry and all authorisations given or held by or on behalf of such transacting user entity shall remain in full force and effect; and
 - (B) all authorisations given or held by or on behalf of the transacting user entity specified in Section 5.14(a)(i) shall either remain in full

⁵³ Section 5.14 is consistent with Section 5.16 of the Aircraft Regulations, Section 5.20 of the Rail Regulations and Section 5.14 of the Space Regulations.

force and effect or shall be extinguished, as elected by such transacting user entity; and

- (d) a name change shall have no effect on the validity or priority of any registration or other rights or interests.

The International Registry may provide a corresponding facility for notice of a change of name to a professional user entity and for notice of a name change to a controlled entity.

The Registrar may reverse the name change and remove the name change history in cases where the Registrar satisfies itself that no such name change took place.⁵⁴

Discharge of a registration⁵⁵

5.15.1 The information required to discharge a registration is:

- (a) the information referred to in [Sections 5.1(a) and (f)];
- (b) [except as provided in Section 5.15.2, the consent of the named party or parties benefiting from the registered interest, or of the party holding the right to consent to the discharge of such interest in accordance with Section 5.15.3, given under an authorisation;
- (c) where a right of consent to discharge a registration has been transferred, the consent of the party having this right, given under an authorisation;] and
- (d) the file number of the registration to be discharged.⁵⁶

5.15.2 The parties mentioned in Section 5.15.1(b) and (c) do not include the debtor, assignor, subrogor or person subordinating the registered interest.

5.15.3 A named party referred to in Section 5.15.1(b) may electronically transfer to a registry user entity, with the consent of that entity, the sole right to consent to the discharge of such registration. Such sole right to consent to the discharge may be further transferred by a holder thereof to another registry user entity with the consent of the latter.

5.15.4 The party or parties benefiting from a registration, the party holding the right to consent to the discharge of a registration under Section 5.1(g) or, if such right has been transferred, the transferee of such right, shall have the sole right to consent to the discharge of that registration.

~~5.15.5 The International Registry may provide a facility for entering an authorisation code issued by an authorising entry point in relation to the discharge of a registration. If an authorisation code for a discharge is expressly required under the law of the Contracting State which was the direct entry point for the registration to be discharged, the party holding the right to consent to the discharge may enter the required authorisation code.⁵⁷~~

⁵⁴ This sentence is consistent with the final sentence of Section 5.16 of the Aircraft Regulations, but does not have a corresponding provision in the Rail Regulations or Space Regulations.

⁵⁵ Article XIX of the MAC Protocol modified the discharge provisions in Article 25 of the Convention. Section 5.15 might need to be further modified to reflect Article XIX. Section 5.15 is consistent with Section 5.8 of the Aircraft Regulations, Section 5.10 of the Rail Regulations and Section 5.7 of the Space Regulations.

⁵⁶ Section 5.10(e) of the Rail Regulations provides one further requirement for discharge of a registration: “the date the discharge is to be effective”. The MAC Regulations currently follow the Aircraft Regulations and Space Regulations in not including this additional requirement.

~~⁵⁷ Section 5.10 of the Rail Regulations do not include a corresponding provision, as the Rail Regulations do not make a distinction between direct entry points and authorising entry points.~~

Correcting an error of the International Registry system⁵⁸

5.16 The Registrar may correct an error in a registration or a discharge or the chronological order of registrations, or discharge a registration, if such error is created by a malfunction in the International Registry, provided that such correction or discharge shall be effective only from the time it is made and shall have no effect on the priority of any other registration. If such correction or discharge would change the registered information that would otherwise appear on a priority search certificate, notice that such correction or discharge has been made by the Registrar shall appear on all priority search certificates relating to the equipment.

The Registrar shall promptly give notice of any such correction or discharge to the named parties in the original registration and, if different, the parties making that registration, other parties with registered interests in that equipment, and those who have conducted a priority search on that equipment since the time of the original registration.

Alternatively, the Registrar may request the named parties to the original registration to amend or discharge that registration, leave that registration in place as registered, or without limiting this Section 5.16, seek an order from a court with jurisdiction under Article 44(1) of the Convention.

Closing room⁵⁹

5.17 The International Registry may provide a closing room facility ("closing room") on its website permitting registry users to assemble the information required to effect a registration in advance of completing such registration and, in the case of multiple registrations in respect of one or more aircraft objects, to establish the chronological order of such registrations. The Appendix to these Regulations describes the closing room, including the conditions and procedures for:

- (a) assembling information prior to any registration taking effect;
- (b) entering registrations into the International Registry data base containing such information; and
- (c) making such registrations searchable, and establishing the order, date and time of receipt of such registrations by the International Registry;

and in the cases of (b) and (c) above, for the purposes of Articles 18 (4) and 19 of the Convention.

Use of electronic information⁶⁰

5.18 In order to effect a registration, use of provided object identification information is mandatory and, where so provided, is the sole means of satisfying the requirements of Section 5.1(c). To the extent that provided object identification information is not provided for mining, agricultural or construction equipment at the time the registration data are submitted to the International Registry, the information required

⁵⁸ Section 5.16 is consistent with Section 5.17 of the Aircraft Regulations, Section 5.21 of the Rail Regulations and Section 5.15 of the Space Regulations. [The closing room is an Aviareto trademark.](#)

⁵⁹ Section 5.17 is consistent with Section 5.21 of the Aircraft Regulations, Section 5.23 of the Rail Regulations and Section 5.18 of the Space Regulations. The Preparatory Commission may want to discuss whether a closing room facility would be useful for users of the MAC Registry.

⁶⁰ Section 5.18 is consistent with Section 5.1 of the three existing Regulations.

by Section 5.1 (c) shall be electronically entered by a registering person using the format prescribed in the Procedures.⁶¹

The validity of a registration shall not be adversely affected by the subsequent availability of updated or new provided object identification information.

Supplemental object identification materials⁶²

5.19 The Registrar may post supplemental object identification materials, the use of which is subject to the notice and disclaimer posted on the International Registry.

The posted supplemental object identification materials establish the variant information which is encompassed by the provided object identification information. The use of provided object identification information (without any of the variant information) is necessary and sufficient to satisfy the requirements of Section 5.1 (c).

Section 6 CONFIRMATION AND NOTICE OF REGISTRATION⁶³

6.1 In this Section, the term "registration" includes, where appropriate, an amendment, extension, or discharge of a registration or transfer of the right to consent to the discharge of a registration.

6.2 The International Registry shall send prompt electronic confirmation of a registration to the named parties, the registering person and all other persons entitled to receive notice of that registration under Section 5. The receipt or non-receipt of such confirmation does not imply that the registration has or has not been effected, that fact being determinable solely by means of a priority search.⁶⁴

6.3 ~~When a registration is effected relating to mining, agricultural or construction equipment, an electronic notice thereof shall be sent, on an opt-in basis, to the named parties and registering person of any other registration which has not been~~

⁶¹ Section 5.1 of the Rail Regulations and Space Regulations include the following additional text at the end of the final sentence: "except as regards named parties (other than those whose consent is not required under [Sections 5.8, 5.9, 5.10 or 5.12 in the Rail Regulation] [Sections 5.7.1 and 5.9 in the Space Regulations] because they must be approved transacting user entities."

⁶² Section 5.19 is consistent with Section 5.2 of the Aircraft Regulations. The Rail Regulations and Space Regulations utilise different rules regarding this issue:

Complete Identification (Rail Regulations)

5.2 Identity information shall be deemed complete only if all of the elements contained in the definition of identity is provided.

Documentation and information posted by the Registrar (Space Regulations)

5.2 The Registrar may post documentation and information designed to assist registry users in determining if information has been provided by the International Registry for the purposes of Section 5.1. The use of such documentation and all information referred to therein, including information provided by the International Registry, is subject to the notice and disclaimer posted on the International Registry.

⁶³ Section 6 is consistent with Section 6 of the three existing Regulations.

⁶⁴ Section 6.2 is modelled on Section 6.2 of the Aircraft Regulations. Section 6.2 of the Rail Regulations contains slightly different language.

The International Registry shall provide prompt electronic confirmation of a registration to the named parties, the registering person and all other interested persons. The receipt or non-receipt of such confirmation does not imply that the registration has or has not been effected, that fact being determinable solely by means of a priority search.

~~discharged relating to that equipment.~~⁶⁵ The named parties and registering person of any registration which has not been discharged may elect to receive an electronic notice from the Registry of any [or some] registration against equipment identified by the same [serial number].

6.4 The confirmation and notice referred to in Sections 6.2 and 6.3, respectively, shall include the registered information specified in Section 5 relating thereto and the file number of the registration.

6.5 Named parties may electronically elect not to receive the notices referred to in Section 6.3. Such elections shall require digital signatures. Registry users may request not to receive electronic notices in respect of one or more objects of equipment or registrations.

[Section 7 NON-CONVENTION FILINGS⁶⁶

7.1 To the extent approved by the Supervisory Authority, the Registrar shall provide for filings of other interests in mining, agricultural or construction equipment or contract information relating to international interests that are for the purposes of information only and do not affect the rights of any person, or have any other effect, under the Convention or this Protocol.

7.2 Such filings shall be subject to search but the Registrar shall bear no responsibility for any errors or omissions, and search results whether or not effective shall not affect perfection, priority or other rights or obligations under the Convention or the Protocol.]

Section 8 SEARCHES IN THE INTERNATIONAL REGISTRY⁶⁷

8.1 Searches of the International Registry in respect of mining, agricultural or construction equipment shall be made using only the manufacturer's serial number for that equipment.⁶⁸

Such a search may be by means of a priority search or informational search, as set out in Sections 8.2 and 8.3, respectively. A Contracting State search and a registry user search may also be made, as set out in Sections 8.5 and 8.6, respectively. A search, other than a self-search pursuant to Section 8.7, may be performed by any person who complies with the Procedures, whether or not that searching person has a specific interest. A self-search of a particular transacting user entity (including any of its controlled entities) may be performed only by the administrator or replacement administrator of the entity in question where that administrator or replacement

⁶⁵ ~~As manufacturer serial numbers won't necessarily ensure uniqueness, it is possible that two or more registrations of different objects with the same serial number could be made in the MAC Registry. Under such circumstances, the Registrar might have difficulty in determining which parties to send a notification to under Section 6.3. The Preparatory Commission may wish to discuss this matter further.~~

⁶⁶ Section 7 is modelled on Section 7 of the Rail Regulations and has no corresponding provision in the Aircraft Regulations and Space Regulations. The Preparatory Commission may wish to discuss whether Section 7 is necessary in the MAC Regulations.

⁶⁷ Section 8 is generally consistent with Section 7 of the Aircraft Regulations, Section 8 of the Rail Regulations and Section 7 of the Space Regulations.

⁶⁸ Section 8.1 implements Article XVIII(1) of the MAC Protocol, which provides: *For the purposes of Article 19(6) of the Convention, the search criterion for equipment shall be its manufacturer's serial number.*

administrator complies with the Procedures. All searches shall be performed by electronic means.⁶⁹

- 8.2 A “priority search” is a search for registration information using the criterion specified in Section 8.1. Such information is searchable for purposes of Articles 19(2) and (6) of the Convention and Article XVIII(1) of the Protocol.
- 8.3 An “informational search” is a search other than a priority search using the criteria specified in Section 8.1, either alone or with another criterion set out in that Section. Such informational searches may include the use of symbols specified in the International Registry designed to produce inclusive search results. The results of an informational search, an “informational search listing”, shall be a list of all matching mining, agricultural and construction equipment by the criteria set out in Section 8.1. The facility to perform such an informational search does not make that information searchable for purposes of Articles 19(2) and (6) of the Convention and Article XVIII(1) of the Protocol.
- 8.4 A “priority search certificate” is a certificate issued in response to a priority search. It shall:
- (a) set out the information required by Article 22(2)(a) or (b) of the Convention, as applicable, and comply with Article 22(3) of the Convention;
 - (b) if Article 22(2)(a) of the Convention applies, list the registered information in both:
 - (i) chronological order; and
 - (ii) a manner that indicates the transactional history of each registered interest; and
 - (c) indicate the current holder of the right to consent to the discharge a registration and set out in chronological order when that right as been transferred and the parties executing such transfer; and
 - (d) set out the electronic address of each of the named parties to the registration and of the current holder of the right to consent to the discharge of such registration, such addresses in each case to be based upon the most current contact information provided to the International Registry.⁷⁰
- 8.5 A “Contracting State search” is a search for all declarations and designations, and withdrawals thereof, made under the Convention and the Protocol by the Contracting State specified in the search. A “Contracting State search certificate” is a certificate issued in response to a Contracting State search. A Contracting State search certificate shall:
- (a) indicate, in chronological order, all declarations and designations, and withdrawals thereof, by the specified Contracting State;

⁶⁹ Section 8.1 of the Rail Regulations contains an additional sentence: *The Registrar shall not permit searches other than by reference to the criteria stated above except where this has been approved by the Supervisory Authority.*

⁷⁰ Section 8.4(d) of the Rail Regulations provides an extra element for “priority search certificates”: *indicate the current holder of the right to discharge a registration and set out in chronological order when that right to discharge has been transferred and the parties executing such transfer.*

- (b) list the effective date of ratification, acceptance, approval or accession of the Convention and the Protocol, and of each declaration or designation, and withdrawal thereof, by the specified Contracting State; and
- (c) attach, in the electronic form set out in the Procedures, a copy of all instruments deposited by the specified Contracting State relating to items within the scope of Section 8.5(b).⁷¹

8.6 A "registry user entity search" is a search for the registry user identity information and contact information (subject to such exclusions that the registry user entity has selected pursuant to Section 4.1). When conducted by a registry user, the search result shall indicate whether or not such registry user entity's account is active. For the purposes of this Section 8.6, a registry user entity search shall include searches of controlled entities.⁷²

8.7 A "self-search" is a search against a particular transacting user entity and, optionally, against its controlled entities, that shall return a priority search certificate for each aircraft object, or sub-set thereof, in which the transacting user entity or controlled entity is a named party. The searching party may limit the results by date, entity or as otherwise permitted on the website. An electronic notification will be sent to the relevant back-up contact each time a self-search is initiated.⁷³

8.8 Each search certificate and listing shall be issued and made available in electronic form. Upon request, a printed copy of a priority search certificate or Contracting State search certificate shall be provided by the Registrar.⁷⁴

Section 9 OPERATIONAL COMPLAINTS

9.1 Any person may submit a complaint to the Registrar concerning the operation of the International Registry. If not satisfactorily addressed by the Registrar, that complaint

⁷¹ Section 8.5(c) is consistent with Section 8.5(c) in the Rail Regulations and Section 7.5(c) in the Space Regulations. The Aircraft Regulations do not have a corresponding provision.

⁷² Section 8.6 is consistent with Section 7.6 of the Aircraft Regulations and Section 8.6 of the Rail Regulations. Section 7.6 of the Space Regulations differ to the extent that the International Registry is not under an obligation to provide a facility for "registry user entity searches": *The International Registry may provide a facility for a "registry user entity search". The results of a registry user entity search shall be a list of the entity's identity information and contact information (subject to such exclusions as the registry user entity selected pursuant to Section 4.1). When conducted by a registry user, such a search shall also indicate whether or not such registry user entity's account is active.*

⁷³ Section 8.7 is consistent with Section 7.6 if the Aircraft Regulations and Section 8.7 of the Rail Regulations, but does not have a corresponding provision in the Space Regulations.

⁷⁴ Section 7.8 of the Aircraft Regulations contains additional provisions relating to the provision of "supplementary priority search information":

The Registrar may also, at its discretion, when issuing a priority search certificate, provide supplementary priority search information, including:

(a) an information table summarizing the registered information in accordance with Section 7.4 (a); or (b) the contents of the priority search certificate in a different electronic format, designed to be machine-readable.

Such supplementary priority search information, where provided, is for information purposes only to assist users in reviewing the registered information contained in the priority search certificate. Users must review all registered information contained in the priority search certificate and not just the information contained in the supplementary priority search information. In the case of inconsistency between the registered information contained in the priority search certificate and the supplementary priority search information, the registered information contained in the priority search certificate shall prevail. Any inconsistencies or inaccuracies discovered between the registered information contained in the priority search certificate and the supplementary priority search information should be reported to the Registrar within 72 hours of their receipt by the user.

may be further submitted by that person to the Supervisory Authority pursuant to the Procedures. For the purposes of Section 9.1:

- (a) a matter “concerns the operation of the International Registry” when the matter relates to general procedures and policies of the International Registry and does not involve specific adjudication by the Registrar or Supervisory Authority.
- (b) a person making a complaint shall substantiate his/her assertions in writing.⁷⁵

9.2 The Supervisory Authority shall⁷⁶ consider complaints and where, on the basis of that consideration, it determines changes in the procedures or policies are appropriate, it shall so instruct the Registrar.⁷⁷

9.3 The Procedures shall set out details relating to the procedure contemplated by Sections 9.1 to 9.4.⁷⁸

Section 10 CONFIDENTIALITY⁷⁹

All information in the International Registry shall be confidential except where it is:

- (a) provided by the Registrar under Section 5.2(e);⁸⁰
- (b) provided by the Registrar in response to a search under Section 8;
- (c) made electronically available to enable registry users to effect, amend or discharge registrations;
- (d) provided to the Supervisory Authority at the latter’s request;
- (e) submitted by the Registrar in court proceedings under Article 44 of the Convention;⁸¹
- (f) used for the purposes of the statistics required by Section 11, or

⁷⁵ Section 9.1 follows the structure of Section 8.1 of the Aircraft Regulations, whereas as Section 9 of the Rail Regulations and Section 8 of the Space Regulations have the rules contained in Section 9.1(a) and (b) as separate sections (Sections 9.2 and 9.3 in the Rail Regulations and Sections 8.2 and 8.3 in the Space Regulations). This is only a structural difference, substantively all three existing Regulations are consistent with each other.

⁷⁶ Section 9.4 of the Rail Regulations requires the Supervisory Authority to “promptly” consider complaints. The MAC Regulations follow the Aircraft Regulations and Space Regulations in omitting the word “promptly”.

⁷⁷ Section 9.4 of the Rail Regulations includes additional text at the end of this sentence: “*or amend the Procedures*”. The MAC Regulations follow the Aircraft Regulations and Space Regulations in omitting this additional text.

⁷⁸ Section 8.3 of the Aircraft Regulations provide an additional rule, which does not have a corresponding provision in the Rail Regulations or the Space Regulations. The Supervisory Authority may wish to consider whether this rule should also be inserted in the MAC Regulations:

8.3 Any person adversely affected by a unilateral registration who reasonably believes that the registration does not meet the requirements of Section 5.4, 5.10 or 5.20 may submit a complaint to the Registrar. Where such adverse effect is substantiated to its reasonable satisfaction, the Registrar shall act in accordance with Section 14.5 of the Procedures.

⁷⁹ Section 10 is generally consistent with Section 9 of the Aircraft Regulations, Section 10 of the Rail Regulations and Section 9 of the Space Regulations.

⁸⁰ Section 9(a) of the Aircraft Regulations provide a different formulation of this rule (which is still understood to refer to documentary evidence relating to R-NCRI’s under Section 5.4(e) of the Aircraft Regulations): “*documentary evidence provided to the Registrar under these Regulations*”. The Space Regulations do not contain a corresponding provision.

⁸¹ Section 10(e) is consistent with Section 9(e) of the Aircraft Regulations and Section 10(e) of the Rail Regulations however the Space Regulations do not have a corresponding provision.

- (g) required to be disclosed by applicable law or authorised to be disclosed by the Supervisory Authority.⁸²

Section 11 STATISTICS⁸³

- 11.1 The Registrar shall maintain updated registration statistics and shall publish them in an annual report. This report shall be electronically accessible to any person.
- 11.2 The registration statistics under Section 11.1 shall consist of:
- (a) transactional volumes and revenues, subdivided, in each case, by registration type and geographic distribution, and
 - (b) other compilations of non-confidential information requested by the Supervisory Authority.

Section 12 ANNUAL REPORT TO THE SUPERVISORY AUTHORITY⁸⁴

- 12.1 The Registrar shall prepare an annual report, including statistical data referred to in Section 11, and shall submit it to the Supervisory Authority.

Section 13 RELATIONS WITH THE ENTRY POINTS⁸⁵

~~13.1 A Contracting State may designate an entry point or entry points ("entry point") under Article XVI(1) of the Protocol:~~

~~(a) which shall or may authorise the transmission of, or directly transmit, information required for registration under the Convention and the Protocol to the International Registry ("authorising entry point"); or~~

~~(b) through which information required for registration under the Convention and the Protocol shall or may be directly transmitted to the International Registry ("direct entry point").~~

~~In the case of a designation under Section 13.1(a) this section relating to authorisation, all registrations made pursuant to Sections 5.1, 5.2, 5.3, 5.4, 5.6 and 5.8 from such entry point shall include the authorisation code issued by the relevant Contracting State with respect to such registrations.~~

⁸² Section 10(g) is consistent with Section 10(g) of the Rail Regulations however the Aircraft Regulations and Space Regulations do not have corresponding provisions.

⁸³ Section 11 is consistent with Section 10 of the Aircraft Regulations, Section 11 of the Rail Regulations and Section 10 of the Space Regulations.

⁸⁴ Section 12 is consistent with Section 11 of the Aircraft Regulations and Section 11 of the Space Regulations. Section 12 of the Rail Regulations is differently titled ("*Relations with the Supervisory Authority*") and allows the Annual Report to the Supervisory Authority to "*include recommendations for changes in these Regulations or in the Procedures*". The Preparatory Commission may wish to discuss whether this element should be included in the MAC Regulations.

⁸⁵ Article XVI of the MAC Protocol provides for Contracting States to designate entry points to the International Registry. Section 13 is largely consistent with Section 12 of the Aircraft Regulations and Space Regulations, in differentiating between "authorising entry points" and "direct entry points". Section 13 of the Rail Regulations adopt a different approach. The Preparatory Commission may wish to discuss which approach is more appropriate for the MAC Regulations.

- 13.1~~2~~ A Contracting State may only designate an ~~mandatory~~ entry point in respect of:
- (a) registrations relating to international interests in equipment where the debtor is located within its territory~~relating to [equipment that are located in the State].~~⁸⁶
- 13.2~~3~~ A Contracting State designating an entry point shall notify the Depository and the Supervisory Authority thereof,~~indicating whether such entry point is an authorising or direct entry point.~~ The Supervisory Authority shall keep the Registrar informed of such designations, and the Registrar shall maintain a current list thereof that is electronically accessible to users.
- 13.3~~4~~ An ~~direct~~ entry point shall only transmit a ~~registration~~ when the conditions established by it have been satisfied, such conditions to be consistent with the Convention, the Protocol, and these Regulations, and the named parties in that registration are approved transacting user entities. Subject to the receipt by the International Registry of the consent from each party whose consent is required under the Convention, the Protocol and these Regulations, including, if so required, the named parties in the subject registration, a registration transmitted by an direct entry point shall be effected when received by the International Registry.
- 13.4~~5~~ Without prejudice to Section 13.4, the Registrar shall establish arrangements applicable to the electronic transmission of registration information from, or authorised by, entry points to the International Registry and, after consultations with each designated entry point, shall specify the procedures applicable to that entry point. Such arrangements between an entry point and the International Registry shall not impose any additional cost on the International Registry and shall not adversely affect the functioning of the International Registry system or impose a burden on International Registry resources.
- 13.6~~—————~~ ~~The International Registry shall provide an electronic warning against a registration that is not effected:~~
- ~~(a) through an direct entry point where use thereof is mandatory; or~~
- ~~(b) in accordance with procedures required by an authorising entry point;~~
- ~~to the extent agreed between the International Registry and the Contracting State declaring that entry point.~~⁸⁷
- 13.7~~—————~~ ~~A registration effected in violation of the terms of a designation under Section 13.1 is not invalid.~~⁸⁸

⁸⁶ Section 12.2 of Aircraft Regulations provides two “connecting factors” for domestic entry points:

(a) registrations relating to airframes and helicopters for which it is the State of registry; and/or (b) registrations of prospective international interests, prospective sales or prospective assignments of international interests in any airframe or helicopter for which it has taken regulatory steps to become the State of registry.

The MAC Protocol Diplomatic Conference deferred the connecting factor to be determined in the Regulations (see UNIDROIT 2019 – DCME-MAC – Doc. 32 rev paragraphs 7 – 31 and UNIDROIT 2019 – DCME-MAC – Doc. 35 rev. paragraphs 49 – 55). Two options could be (i) the location of the equipment, as currently provided by Section 13.2, or (ii) the location of the dealer. If the location of dealer is the preferred connecting factor, Article XII of the MAC Protocol could be used as a model. The Preparatory Commission is invited to consider this matter further.

⁸⁷ ~~The Preparatory Commission may wish to discuss whether this provision is necessary or feasible, on the basis that (i) it may be difficult for the Registry to determine when such an electronic warning should be put against a registration, and (ii) Article XVI(3) of the MAC Protocol provides that a registration shall not be invalidated by a failure to use a designated entry point.~~

⁸⁸ ~~Section 13.6 differs Section 12.6 of the Aircraft Regulations, Section 13.4 of the Rail Regulations and Section 12.7 of the Space Regulations, which all generally provide that a registration effected in violation of a~~

Section 14 FEES⁸⁹

- 14.1 The Registrar shall collect a fee prior to undertaking services relating to the International Registry.
- 14.2 Fees, including fees arising from operations through an entry point, must be paid to the Registrar prior to the requested operation unless otherwise agreed between the Registrar and such entry point.
- 14.3 Fees shall be established and adjusted by the Supervisory Authority, as required by the Convention and the Protocol.
- 14.4 Fees shall be collected according to a schedule issued by the Supervisory Authority, which shall state the amount of fees payable for each service.

Section 15 LIABILITY AND INSURANCE OF THE REGISTRAR⁹⁰

- 15.1 For the purposes of Article 28(1) of the Convention, "loss suffered" means loss or damage resulting from an error or omission of the Registrar and its officers and employees or from a malfunction of the international registration system, except as provided for by Article 28 of the Convention, but does not include loss or damage resulting from lack of access to the International Registry as a result of measures referred to in Section 3.3 of these Regulations.
- 15.2 Any claim against the Registrar under Article 28(1) of the Convention:
- (a) shall be made in writing within the time period applicable under the laws of the State where the International Registry is located;
 - (b) shall only be made following consultations between the claimant and the Registrar; and
 - (c) if not resolved by such consultations may be pursued by the claimant in accordance with Article 44 of the Convention.

~~designated entry point is invalid. Section 13.6 is based upon the rule in Article XVI(3) of the MAC Protocol, which provides that a registration shall not be invalidated by a failure to use a designated entry point.~~

⁸⁹ Section 14 is consistent with Section 13 of the Aircraft Regulations and Space Regulations. Section 14 of the Rail Regulations contain additional rules relating to fees, including additional information on the timing of fee changes and supplementary tariffs for credit card payments:

14.1 Fees in relation to the services provided by the Registrar shall be established and adjusted by the Supervisory Authority as required by the Convention and the Protocol. The fee tariff shall be set by a schedule issued by the Supervisory Authority from time to time and which shall state the amount of fees payable for each service. The Fee schedule shall be published by the Registrar at the request of the Supervisory Authority on the website of the International Registry and enter into effect 30 days after that publication.

14.2 The Registrar shall collect a fee prior to undertaking services relating to the International Registry.

The Registrar may also charge a supplement on the fees in excess of the tariffs set out in the Fee schedule where payment is made by credit or debit cards or other similar third party payment systems, provided that such supplement shall generally correspond to the Registrar's direct third party costs in collecting such payment.

14.3 Fees, including fees arising from operations through an entry point, must be paid to the Registrar prior to the requested operation unless otherwise agreed between the Registrar and such entry point provided that the Registrar shall not be permitted to require payment more than 7 days prior to such operation.

⁹⁰ Section 15 is generally consistent with Section 14 of the Aircraft Regulations and Space Regulations and Section 16 of the Rail Regulations. Sections 15.1 – 15.3 are uniform in the three existing Regulations, whereas Sections 15.4 and 15.5 follow Sections 16.4 and 16.5 of the Rail Regulations, on the basis of the consistency between Article XV of the Rail Protocol and Article XVIII of the MAC Protocol

- 15.3 The Procedures shall set out details relating to the procedure contemplated by Section 15.2.
- 15.4 For the purposes of the second sentence of Article XVIII(4) of the Protocol, the liability of the Registrar is determined not to exceed 5 million Special Drawing Rights per event of loss. An event of loss comprises all losses suffered as a result of the same error or omission or malfunction insofar as the losses are compensable under Article 28(1) of the Convention.
- 15.5 For the purposes of Article XVIII(7) of the Protocol, the amount of insurance or financial guarantee shall not be less than 5 million Special Drawing Rights per event of loss. The Registrar is obliged to maintain such coverage through insurance or financial guarantee for the term of its appointment and under such conditions as set by the Supervisory Authority.
- Section 16 PROCEDURES⁹¹
- 16.1 Procedures addressing items required by these Regulations or otherwise relating to the technical operation and administrative processes of the International Registry shall be established by the Supervisory Authority and shall be complied with by all registry users and searching persons.⁹²
- 16.2 Without restricting their content, the Procedures shall set out the technical and administrative processes for:
- (a) effecting, amending and discharging registrations and making and obtaining copies of searches; and
 - (b) obtaining the approvals and authorisations required to access the International Registry.
- Section 17 PUBLICATION⁹³
- 17.1 The authentic version of these Regulations and the Procedures shall be published in an official publication of the Supervisory Authority.⁹⁴
- 17.2 The Registrar shall make an electronic version of the authentic texts referred to in Section 17.1, as may be amended as contemplated by Section 18, available to the public at no cost.

⁹¹ Section 16 is consistent with Section 15 of the Aircraft and Space Regulations. Section 17 of the Rail Regulations includes an additional subsection 17.3: *Subject to the approval of the Supervisory Authority, the Registrar shall issue guidance notes from time to time concerning the implementation of these Regulations and the Procedures.*

⁹² Section 17.1 of the Rail Regulations include a second sentence that is not reflected in Section 15.1 of the Aircraft Regulations or Space Regulations: Unless specifically prohibited by the Supervisory Authority, in situations where such operation or processes need to be changed urgently, the Registrar shall be entitled to issue interim amendments to the Procedures in relation to such changes which shall be notified to the Supervisory Authority as soon as reasonably practicable thereafter and immediately withdrawn if requested by the Supervisory Authority.

⁹³ Section 17 is generally consistent with Section 16 of the Aircraft Regulations and Space Regulations and Section 18 of the Rail Regulations, although the Rail Regulations include two additional subsections.

⁹⁴ Section 18.1 of the Rail Regulations includes the following additional words at the end of this sentence: "on its website."

17.3 Copyright in all documents published and information displayed on the website of the International Registry or published by the Supervisory Authority, and the domain of the website of the International Registry as identified by the Supervisory Authority in writing shall belong to the Supervisory Authority. The contents of this Section 17.3 shall be prominently displayed by the International Registry on its website.⁹⁵

17.4 Section 17.3 shall apply analogously to any other business or social media or applications used by the International Registry for effecting and searching registrations under the Convention and the Protocol.⁹⁶

Section 18 NOTIFICATIONS⁹⁷

The Registrar may notify an administrator or a registry user entity, by email to the current email address provided by or for that person, of any matters affecting the International Registry. Any such notification shall be presumed to have been received 24 hours after it was sent.

Section 19 AMENDMENTS⁹⁸

19.1 Requests for amendments to these Regulations or the Procedures may be submitted by the Registrar to the Supervisory Authority, which shall consider such proposed amendments.⁹⁹

19.2 The authentic version of any amendments to these Regulations or the Procedures approved by the Supervisory Authority shall be published in an official publication of the Supervisory Authority.¹⁰⁰

19.3 The validity and priority of, and other rights and interests appurtenant to, a registration made in conformity with the Regulations and the Procedures as in effect at the time of such registration, and taking into account the functional capabilities of the International Registry at such time, shall not be affected by any subsequent change to such Regulations, Procedures or capabilities of the International Registry, and the provision of a facility that allows the parties to a registration to amend or otherwise modify a registration in order to conform to such changes shall not be construed as implying any obligation to effect any such amendment or modification.

⁹⁵ Section 17.3 is modelled on Section 18.3 of the Rail Regulations and has no corresponding provision in the Aircraft Regulations and Space Regulations. The Preparatory Commission may wish to discuss whether it is necessary to include it in the MAC Regulations.

⁹⁶ Section 17.4 is modelled on Section 18.4 of the Rail Regulations and has no corresponding provision in the Aircraft Regulations and Space Regulations. The Preparatory Commission may wish to discuss whether it is necessary to include it in the MAC Regulations.

⁹⁷ Section 18 is consistent with Section 19 of the Rail Regulations and has no corresponding provision in the Aircraft Regulations and Space Regulations. The Preparatory Commission may wish to discuss whether it is necessary to include it in the MAC Regulations.

⁹⁸ Section 19 is consistent with Section 17 of the Aircraft Regulations and Space Regulations and Section 20 of the Rail Regulations, although the Rail Regulations has some modifications.

⁹⁹ Section 20.1 of the Rail Regulations includes a second sentence: "*In considering any proposed amendments, the Supervisory Authority shall take into consideration the views of relevant industry groups.*" The Preparatory Commission may wish to consider whether this sentence should also be included in the MAC Regulations.

¹⁰⁰ Section 19.2 is consistent with Section 17.2 of the Aircraft Regulations and Space Regulations, however there is no corresponding provision in the Rail Regulations.

19.4 The validity of any action taken by the Registrar in conformity with the Regulations and the Procedures as in effect at the time of such action, shall not be affected by any subsequent change to such Regulations or Procedures.

Section 20 EFFECTIVE DATES¹⁰¹

The present Regulations and the initial Procedures shall take effect on the date the Protocol enters into force.¹⁰² Any amendments to these Regulations or the Procedures shall take effect one calendar month¹⁰³ after the date of their publication unless otherwise determined by the Supervisory Authority.

¹⁰¹ Section 20 is modelled on Section 20.2 of the Rail Regulations and is generally consistent with Section 18 of the Aircraft Regulations and Space Regulations.

¹⁰² This sentence is consistent with Section 20.2 of the Rail Regulations, however there is no corresponding provision in the Aircraft Regulations or Space Regulations.

¹⁰³ Section 18 of the Aircraft Regulations and Space Regulations provide for “one calendar month” whereas Section 20.2 of the Rail Regulations provides for “30 days”.