



EN

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

UNIDROIT 2021
MACPC/2/Doc. 8
Original: English
May 2021

Intersessional Document

Update on work undertaken on the appointment of a Supervisory Authority of the International Registry to be established under the Mining, Agriculture and Construction (MAC) Protocol

1. This document provides a summary of consultations that the UNIDROIT Secretariat has undertaken in the first quarter of 2021 with organisations that are potential candidates for the role Supervisory Authority. It also provides an update on the consideration of the World Trade Organization (WTO) and the Multilateral Investment Guarantee Agency (MIGA) as potential candidates.

Background

2. At the Preparatory Commission's second session (10-11 December 2020), the Commission requested that the Secretariat prepare an assessment of WTO and MIGA as potential candidates by 31 January 2021. The Commission further requested that the Secretariat approach the Organisation for Economic Cooperation and Development (OECD), the World Custom's Organization (WCO) and the United Nations Conference on Trade and Development (UNCTAD) to assess their interest in being appointed Supervisory Authority by 31 March 2021.¹

3. The Commission further resolved that UNIDROIT should be considered as a backup candidate for the Supervisory Authority role, if no other organisation was found to be suitable and willing to undertake the role.²

Consideration of MIGA and WTO

4. On 5 February 2021, the Secretariat provided the Preparatory Commission with research regarding the suitability of WTO and MIGA as candidates for the Supervisory Authority role (UNIDROIT 2021 – MACPC/2/Doc. 7). The document assessed the suitability of the WTO and MIGA as candidates against three criteria: (i) prior knowledge and/or experience relating to the Cape Town Convention and its Protocols; (ii) portfolio of work in secured transactions law and (iii) experience with electronic collateral registries. Neither organisation was assessed to have satisfied any of the three criteria. Consequently, the Secretariat suggested that neither organisation was suitable for the role of Supervisory Authority.

¹ [UNIDROIT 2021 – MACPC/2/Doc. 6, paragraph 46.](#)

² [UNIDROIT 2021 – MACPC/2/Doc. 6, paragraphs 24 – 36.](#)

5. Commission members and observers were invited to submit comments on the assessments of WTO and MIGA as candidates by 5 March 2021. Having received no comments on the document, it is understood that Commission members support the Secretariat's assessments.³ On this basis, WTO and MIGA are no longer considered to be Supervisory Authority candidates.

Consultations with the OECD, WCO and UNCTAD

6. Between January and March 2021, the UNIDROIT Secretariat contacted the OECD, WCO and UNCTAD to assess their interest in being appointed as Supervisory Authority. Each organisation was provided with an introductory document that set out the operation and benefits of the MAC Protocol and Cape Town Convention, how the International Registry will function and the role of the Supervisory Authority. The Secretariat requested teleconferences with each organisation to discuss the matter further.

7. In regard to the OECD, the Secretariat contacted the Trade and Agriculture Directorate. The Director replied that on consultation with various experts throughout the organisation, the OECD did not see sufficient synergistic links between the Supervisory Authority role and the OECD's work and expertise. The OECD did not reply to the Secretariat's invitation to discuss the matter further by teleconference.

8. In regard to the WCO, the Secretariat contacted the Tariff and Trade Affairs Directorate. The Deputy Director replied that the WCO considered the Supervisory Authority role to be too far outside the WCO's mandate.

9. In regard to UNCTAD, the Secretariat contacted the Office of the Secretary-General. UNCTAD is still considering its position. The Secretariat remains in close contact with the Office of the Secretary-General and will provide an update in the documentation for the 3rd Preparatory Commission session.

Next steps

10. The IFC, OECD, WCO, MIGA and WTO are no longer potential candidates for the Supervisory Authority role and UNCTAD is still considering the issue. Due to the close collaboration in other projects and considering its mandate concerning access to finance in the agricultural sector, the Secretariat has held preliminary, fully informal contacts with the Rome-based, UN-system International Fund for Agricultural Development (IFAD) to sound out potential interest. Their initial reaction has not been negative. As a result, the Preparatory Commission might want to consider extending the mandate for the Secretariat to further explore the possibility of IFAD becoming the Supervisory Authority.

11. No further organisations have been identified as potential candidates. As a result, and pending further consideration by both UNCTAD and IFAD, the Commission is invited to consider UNIDROIT as the backup candidate.

12. To assist the Commission, the Secretariat will prepare a detailed document on issues related to UNIDROIT undertaking the role. The document will be provided to Commission members and observers in advance of its third session.

³ At its second session, the Commission agreed that a lack of objections to the Secretariat's assessments would be considered to reflect support. See [UNIDROIT 2021 – MACPC/2/Doc. 6, paragraph 46](#).