



INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW  
INSTITUT INTERNATIONAL POUR L'UNIFICATION DU DROIT PRIVE

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

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***Regulations Working Group  
Fourth session (remote)  
30 April 2021***

**SUMMARY REPORT  
OF THE FOURTH SESSION  
(Videoconference, 30 April 2021)**

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1. The fourth session of the Regulations Working Group established by the Preparatory Commission for the establishment of the International Registry for Mining Agricultural and Construction (MAC) Equipment took place via videoconference on 30 April 2021. The session was attended by 22 participants from 7 Member States of the Commission, 1 Observing State, 1 observers from an international non-governmental organisations, and ex officio observers (the List of Participants is available in Annex I).

2. This report summarises the discussion which took place at the fourth session of the Regulations Working Group.

#### **Item No. 1 Opening of the session**

3. *The Secretary-General and the Chair* welcomed the participants to the fourth session of the MAC Regulations Working Group, and noted that the draft Regulations to be produced after the fourth session would be presented to the 3rd session of the MAC Preparatory Commission for consideration to be included as an annex to the Request for Proposals (RFP) to be issued to establish the MAC International Registry.

#### **Item No. 2 Adoption of the order of business of the session**

4. The Working Group adopted the draft Order of Business (MACPC/Regulation/W.G./4/Doc.1).

#### **Item No. 3 Approval of the Report of the third Session of the Regulations Working Group**

5. The Working Group approved the Report of the Third Session subject to minor changes in document numbering and the list of participants.

#### **Item No. 4 Consideration of issues associated with draft Regulations**

6. *The Chair* drew the attention of the Working Group to the Issues Paper (MACPC/Regulations/W.G./4/Doc.2).

#### **Access Requirements**

7. *The Chair* introduced the issue and drew the attention of the Working Group to the Draft Regulations (MACPC/Regulation/W.G./4/Doc.3) Section 4 Option B, which had been suggested as a more concise alternative draft in place of the original drafting and as more appropriate for the MAC Protocol. It was noted that Option B did not include provisions relating to a controlled entity, and deferred some implementation related details to the Procedures. Similar to Option B, the named parties had full control over who the individuals were that acted on its behalf on the Registry.

8. It was noted that the use of intermediaries such as Professional User Entities (PUEs) should be encouraged, as these would be very useful for unsophisticated users.

9. *The Chair* noted that currently, Option B facilitated the PUE arrangement. However, it had retained that all named parties shall have an account, even if they were using an intermediary, as this would allow them to continue to have access to the Registry in case of changes with the PUE.

10. It was suggested that the Regulations should have flexibility to promote innovation on behalf of prospective Registrars. It was added that for the Aircraft Registry, over 90% of registrations were filed through intermediaries (PUEs). On some occasions, Transactional User Entities (TUEs) were also created for short-term accounts designed to be used for certain registrations.

11. It was noted that there should also be provisions relating to providing consent by named parties who did not have an account on the Registry. It was queried what the level of proof of identity would be for such a consent mechanism.

12. It was noted that the Regulations of the Aircraft Registry may not be the ideal reference for the Regulations for the MAC Registry, as the level of sophistication of users for the MAC Registry was expected to be lower. It was added that it was likely that the use of intermediaries would be less common in the MAC Registry, and that the Registry should be designed in a simple manner so that it could be used directly by users.

13. *The Secretariat* confirmed that prospective Registrars for the MAC Registry would be given flexibility in terms of how to design the functionalities of the Registry. It was queried whether Section 4.1(c) should explicitly state the idea of guest users searching the Registry.

14. It was suggested that with respect to the use of a PUE, a distinction should be made between the technical process and its legal implications. This might be important especially when the transacting user used an intermediary initially and then later decided to subsequently cancel or modify the registration on its own. It was noted that agency law did not need to be elaborated upon in the Regulations.

15. It was added that within a user account, there might be several different levels of subaccounts for different types of personnel. However, these details did not need to be reflected in the Regulations. Some flexibility would also be given to the Registrar in how to design the Registry system.

16. It was noted that the process for identifying the individual registering an R-NCRI was different from that of other individuals. For the Aircraft Registry, this was to make it harder for non-right holders to make registrations which had the potential to create disputes. It was added that additional requirements for R-NCRI ensured that parties registering them always had the right to do so legally, as per Article 18(1) of the Cape Town Convention, and where a registration led to a dispute, the courts already had the documents which the party submitted alongside their R-NCRI.

17. The Chair queried the Working Group if this provision should be moved to Section 5.2 from Section 4.2(c).

18. *It was agreed that additional documents for R-NCRI should not be required when applying for registry access, but rather in section 5.2, which detailed the process of registering an R-NCRI.*

19. It was noted that individuals registering R-NCRI often needed to register them as quickly as possible, as such, it should not be made too difficult for them to do so. It was added that the process was efficient and fast and would not cause undue delays.

20. *Subject to the modifications proposed, the Working Group agreed to use the approach in option B.*

### **Registration criteria**

21. *The Chair* introduced the topic and noted that where a manufacturer used an ISO standard number, this would be enough to identify the item in the Registry. However, when an ISO standard number was not used, additional information would be required alongside the manufacturer's serial number, such as the brand name, and the manufacturer's model designation. The Preparatory Commission had agreed at its second session that one additional requirement should be added to

the list. The Working Group had not yet agreed what this additional information should be, and whether it should be mandatory. In this regard, the Secretariat had been requested to undertake research on how often manufacturers used the same serial number for different items of equipment they produced.

22. It was noted that the Secretariat's research showed that manufacturers did not generally use the same serial numbers for multiple pieces of equipment. It was added that in the rare occasions that similar serial numbers were used, these related to different types of equipment. Additionally, it was added that many manufacturers either used ISO 10621:2002 (for PINs) or ISO 3779 (Road vehicles — Vehicle identification number (VIN)) as standards for serialising their equipment. Furthermore, even though there were various methodologies for serialising equipment, respondents were not aware of any manufacturers in the MAC sectors which duplicated serial numbers for similar types of equipment. The full results of this survey can be found in Annex 3 to this Report.

23. It was noted that as mentioned in the MAC Official Commentary, the registration criteria were for the purpose of ensuring uniqueness to the extent practicable.

24. It was queried whether these two sets of ISO standards were exclusive or might be applied to the same machines. It was noted that ISO 10621:2002 applied to Earth Moving Machinery, whereas and ISO 3779 applied to Road Vehicles. However, it was not certain whether they were mutually exclusive.

25. It was noted that Section 5.1(c) provided different options for providing identifying information, which was not common for debtor-based systems. Therefore, it may potentially impact the effectiveness of the registry. It was queried why Section 5.18 referred to Section 5.1(c).

26. It was recognised that manufacturers either used PIN, VIN, or their own serial number methodology. Additional information should only be required for circumstances where a manufacturer was using their own methodology. It was added that the Registry would need to be built in a manner which recognised the use of a PIN or VIN number.

27. It was noted that Section 5.18 was related to the supplemental information found in the Aircraft Registry which included lists of serial numbers provided by manufacturers. This would likely not be relevant to the MAC Registry. It was recognised that the results of the Secretariat's research were reassuring and suggested that serial numbers were not being duplicated across similar types of equipment.

28. One participant suggested that Section 5.18 and Section 5.19 should be deleted as these were optional features provided by the Registry and they were not entirely applicable to the MAC Registry. Other participants agreed with this suggestion.

29. It was noted that the MAC Working Group was now hosted by AEM, which could provide additional information about the use of PIN and VIN numbers.

30. It was suggested that Section 5.1(c)2(c) should be deleted as the research showed that identification numbers could sufficiently identify equipment. *The Chair* noted that this might need further consideration at the Preparatory Commission as it had requested the inclusion of another option for equipment identification.

31. One participant noted that the results of the survey did not match the practices in Japan. Further confirmation would be needed from Japanese manufacturers to ascertain their serialisation practices. It was noted that the Regulations needed to recognise both PIN and VIN, as both ISO

standards were used in the industry. Additionally, search requirements should also recognise PIN and VIN.

32. It was noted that keeping in mind the mandate from the Preparatory Commission to add an additional identifier to the Regulations, and that problems of serial number duplication existed in some parts of the world, consideration may be given to retaining an additional identifier in the Regulations which would be later defined in the Procedures, or a future version of the Regulations.

33. *The Working Group agreed that the open-ended option for equipment identification would be deleted from the Regulations.*

34. The Secretariat noted that at the second meeting of the Preparatory Commission and the second meeting of the Regulations Working Group, it was assumed that duplication of serial numbers was an issue faced by manufacturers in Japan.

35. *The Working Group agreed that where manufacturers were using any ISO Standard (whether PIN or VIN) to serialise machines, this would be sufficient identification criteria for the purpose of the MAC Registry. It was agreed that the Regulations would be amended to allow for any ISO Standards to be followed, rather than referencing a particular system. It was also agreed that manufacturer's serial numbers would only be permitted in the absence of an ISO compliant number.*

36. The Working Group discussed the possibility of equipment having multiple ISO compliant numbers (such as a PIN and a VIN). It was suggested that the Secretariat should undertake additional research on if/how often such an occurrence could take place. *It was agreed that it was the responsibility of a searcher to make sure that they searched the Registry using the right number, whether that be an ISO standard number, or a manufacturer's serial number.*

37. It was queried whether Section 5.1 should only contain mandatory provisions, whereas items 5.1 (d) and (f) should be inserted in a separate paragraph. *It was agreed that drafting suggestions such as these should be submitted to the Secretariat after the meeting.*

38. *The Working Group agreed that Section 5.1(c)(1) should include a footnote noting further investigation should be done on whether one asset might have two ISO standard numbers. It was also agreed that Section 5.1(c)2(c) should be adjusted, removing the open-ended option. It was also agreed to remove Section 5.18 and Section 5.19.*

### **Consent**

39. *The Chair* introduced the issue and noted that consideration needed to be given to the mechanism through which consent would be obtained from named parties that had accounts on the Registry, as well as debtors which were not accountholders. The Chair drew attention to Section 7 of the Regulations, which had been inserted to address the issue, and which left it to the Procedures to set out the specific processes by which debtors without an account would provide consent. Additionally, it was noted that further consideration needed to be given to the use of the word 'authorisation' in Section 7, given that the same had been used in Section 4. It was noted that if the Procedures were to identify the processes for obtaining consent, they could also be used to distinguish between consent for accountholders and non-accountholders. It was acknowledged that consent was of great importance to the proper functioning of the Registry. As such, careful consideration would need to be given to these processes.

40. *The Working Group agreed to retain the distinction between Section 7.1 and Section 7.2. The process for obtaining consent in Section 7.2, where the debtor did not have an account, should be provided in accordance with the Procedures.*

**Notification**

41. *The Working Group approved the drafting of matters related to notifications issued by the Registry.*

**Relations with the entry points**

42. *The Working Group approved the drafting on matters related to entry points in the draft Regulations.*

**Discharge**

43. *The Chair* introduced the issue and queried if the Regulations were the appropriate document in which to include a reference to the fact that the Registrar may need to discharge a registration based on a court order.

44. Participants noted that while specific instructions in this regard were not appropriate, as the Regulations could not determine how a Registrar would need to react to a court order, general guidance on this matter would be very useful for any parties bidding to set up the MAC Registry. It was additionally noted that such court orders might not be limited to discharge, and may also apply to other actions the Registrar might have to take pursuant to a court order. It was highlighted that any general clause in this regard should not create a jurisdiction for a court where it did not have one.

45. *The Working Group agreed to include a general clause in the Regulations with regard to the Registrar having to act pursuant to a court order of a court which had jurisdiction over it.*

**Search**

46. *The Chair* introduced the topic and queried whether informational searches would be relevant for the MAC Registry, given the type of items to be found on the MAC Registry.

47. Some participants noted that informational searches were unlikely to serve a significant function in the MAC Registry, given the type of additional information to be inserted for equipment (e.g. tractor, or harvester). Furthermore, they could create unnecessary confusion for users as their legal significance was not clear.

48. It was noted that in the Aircraft Registry, an informational search allowed for a 'close match' type functionality where it provided a list of all possible objects a search criterion matched against, rather than directly searching through registrations. It was noted that this was very important, considering various formatting differences in how users entered serial numbers.

49. Several participants recognised the importance of such a 'close match' search and noted that it should be included in the Regulations. However, Section 8.3 needed to be redrafted to reflect this more precisely.

50. With regard to the question of whether searchers needed to create an account to perform a search, it was noted that this was a minor design question and could be addressed later.

51. It was noted that useability should be taken into consideration and access barriers to the Registry should not be too high. At the same time, it was also important to ensure that users could not misuse the Registry.

52. *The Working Group agreed to retain Section 8.3 but to make it clearer that this referred to a close match search functionality. With regard to whether searchers needed to create an account to search the Registry, it was agreed to leave this issue open and to be addressed in the Procedures.*

#### **Other Issues**

53. *The Chair drew the Working Group's attention to Document 4, which contained some drafting suggestions provided by Sir Roy Goode. It was queried whether any Members of the Group had any objections to these points.*

54. One participant noted that it was important for Section 13.4 to specify the conditions necessary for an entry point to submit valid registrations. It was argued that the Regulations could not decide what conditions an entry point should adhere to, as this was a matter for States to decide. However, it was also noted that the Diplomatic Conference had given instruction to the Regulations to decide on the connecting factor for entry points.

55. *it was agreed that this issue would be discussed further at a future meeting.*

#### **Item No. 5 Timetable and planning of further work**

56. It was noted that the Regulations produced after the Working Group's fourth session would be submitted to the MAC Preparatory Commission at its third session on 3-4 June 2021.

#### **Item No. 6 Any other business**

57. No other business was raised under this item.

#### **Item No. 7 Closing of the Session**

58. *The Chair thanked all the participants for their attendance and positive contributions to the discussion.*

59. The Chair closed the Fourth session of the Regulations Working Group.



**ANNEX I****LIST OF PARTICIPANTS****REPRESENTATIVES****STATES**

AUSTRALIA	Mr Gavin MCCOSKER Deputy Chief Executive Australian Financial Security Authority
	Mr Bruce WHITTAKER Senior Fellow University of Melbourne
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##### **STATES**

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International Financial Services  
Department of Finance

Ms Deirdre MORGAN  
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Department of Agriculture, Food and the  
Marine

#### **INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS / ORGANISATIONS INTERNATIONALES NON-GOUVERNEMENTALES**

KOZOLCHYK NATIONAL LAW CENTER (NatLaw)

Mr Marek DUBOVEC  
Executive Director

#### ***EX OFFICIO* OBSERVERS**

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Mr Rob COWAN  
Managing Director

CO-CHAIRPERSON DRAFTING COMMITTEE MAC M. Jean-François RIFFARD  
PROTOCOL / CO-PRESIDENT, COMITE DE Professeur des universités  
REDACTION DU PROTOCOLE MAC Directeur du Master Droit civil  
Directeur de l'Institut d'études judiciaires (IEJ)  
Université Clermont Auvergne - Ecole de Droit

CHAIRPERSON OF THE HS CODES WORKING GROUP Mr Ole BÖGER  
/ PRESIDENT, GROUPE DE TRAVAIL DES CODES SH Judge  
Hanseatic Court of Appeal in Bremen

#### **SECRETARIAT**

INTERNATIONAL INSTITUTE FOR THE UNIFICATION Mr Ignacio TIRADO  
OF PRIVATE LAW Secretary-General

Ms Anna VENEZIANO  
Deputy Secretary-General

Mr Hamza HAMEED  
Legal Consultant

Ms Tianshu LIU  
Legal Assistant

**ANNEX II****ORDER OF BUSINESS**

1. Opening of the session
2. Adoption of the order of business of the session
3. Approval of the Report of the Third Session of the Regulations Working Group
4. Consideration of issues associated with draft Regulations
5. Timetable and planning of further work
6. Any other business
7. Closing of the session

**ANNEX III**

**RESULTS OF SERIALISATION SURVEY**

	<b>Question 1: What country are you headquartered in?</b>	<b>Question 2: When assigning serial numbers to the machines you produce, does your company (or companies within your association) apply any standards developed by the International Organization for Standardisation (ISO)?</b>	<b>Question 2a: If yes, which standards do you apply:</b>	<b>Question 2b: If no, what is your methodology for assigning serial numbers to the machines you manufacture?</b>	<b>Question 3: Have you (or companies within your association) ever manufactured multiple machines with the same serial number?</b>	<b>Question 3a: If yes, what are the instances where your company (or companies within your association) has/will produce more than one machine with the same serial number?</b>	<b>Question 3b: If yes, is there any identification criterion that is used instead of, or in addition to the serial number, to distinguish between these machines? If no such (additional) identification criterion has been used, what type of identification criterion would you suggest that could be used?</b>	<b>Question 4: Are you aware of any other manufacturers who assign the same serial number to multiple machines which they produce? If so, please indicate the methodology under which this may take place.</b>
1	United Kingdom	Yes	ISO 10621:2002		No			No
2	Japan	No		We assign a 6 digit number by product group	Yes	We produce many machines with the same serial number but always within	We always then use a 17 digit VIN number as a unique identifier	Yes, they will also replicate serial numbers but again they will be model specific. They will

						different product or model groups. We never produce the identical machines with the same serial number, there will be a model variation		also use the same VIN number for unique identity.
3	United Kingdom	Yes		Stamping Serial Number into standard company chassis plate	No			No
4	United Kingdom	No		Our accounts package does it automatically	No			
5	Italy	Yes	ISO 10621:2002		No			
6	Ireland	No		WE USE A 6 DIGIT NUMBER THAT RUN CONSECUTIVELY	No			NO
7	Ireland	No		Each machine is assigned a unique number based on the amount of machines of the type previously built, e.g. the firsts machine being assigned the serial no. 00001, and the 1001th machine assigned 01001.	Yes	Yes, this is possible, two products may be assigned a similar serial number.	The products (machine type) will be completely different and it would be easy to identify the correct product/serial number combination. Also the serial plate carries an ID as to the machine type,	No

							for example VT for vacuum tanker, VF for vertical feeder etc.	
8	Ireland	Yes	ISO 10621:2002		No			No.
9	Ireland	No		Individualised serial # that also includes reference to model and year of manufacture	No			No
10	Ireland	No		We have an internal system we came up with a long time ago. it is one letter followed by 5 numbers. e.g. L25869 . It follows on in numerical format and every few years we change the letter	No			no i am not
11	Ireland	No		WE ADD A DIGIT TO THE PREVIOUS NUMBER	No			NO
12	Ireland	No		sequentially	No			
13	Ireland	No		We generate serial numbers in sequence in the business	No			No
14	Ireland	No		We use a unique coding system along with abbreviated reference to the machines make and model. The year of manufacture is also listed.	No			Not aware and we hold a unique coding system to our own manufactured goods.

15	Germany	No		Numbers (consecutive) are generated by our product planning system	No			Not known
16	Switzerland	No	VO(EU) 167/2013, wo nicht zutreffend interne Standards	5-digit number (2 digits for series and 3 digits consecutive number)	No			No
17	Germany	Yes	10261:2002 (eventuell ein Zahlendreher bim oberen Kästchen)		No			No
18	Italy	Yes	ISO 3779:2009		No			
19	Italy	No		Own system for unique 10-digit number, consisting of vehicle type, variant and serial number	No			
20	Germany	Yes	ISO 3779 (Road vehicles — Vehicle identification number (VIN))		No			No
21	Germany	Yes	ISO 3779	"Serial number: 10-digit (3-digit machine short name + 7-digit consecutive number) VIN: 17 digits (according to ISO 3779 and type approval regulations)	No			No, not known



22	United States (USA)	Yes	ISO 10261	ISO 10621 is related to dehydrated green peppers.	Yes	Intent of our company is to not produce two machines with the same serial number. We have had instances where machines could have had the same serial number, though our internal systems work to catch this and correct before product is placed in the market. The instances have been identified when the sequencing of serial numbers rolls over from the highest possible number back to 1.	We intend to keep that from happening and reaching the market.	Not aware
23	Germany	Yes	ISO 3779	Machines that do not fall within the scope of a European type-approval regulation (e.B. EU (VO) 167/2013) or are subject to other national requirements	No			

				will receive an 8-digit alphanumeric serial number. The first 3 digits can be alphanumeric and denote the machine type. The remaining 5 digits are numbered and describe the serial number.				
24	Switzerland	Yes	ISO 10621:2002		Yes	Unique serial numbers are used since we implemented ISO10261 in 2003.	Machine type + Serial Number were unique	No