



**EN**

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

UNIDROIT 2021  
MACPC/4/Doc. 1  
Original: English  
December 2021

***Fourth session (hybrid)***  
**17-18 January 2022**

**ANNOTATED DRAFT ORDER OF BUSINESS**

1. Opening of the session and welcome by the UNIDROIT Secretary-General
2. Adoption of the annotated draft order of business of the session and statements from delegations regarding adoption of the MAC Protocol
3. Consideration of matters relating to the appointment of a Supervisory Authority
4. Updates on the activities of the Working Group to develop draft regulations for the International Registry for MAC equipment
5. Updates on the activities of the Working Group to draft a request for proposals for the selection of a Registrar
6. Timetable and planning of further work
7. Any other business
8. Closing of the session.

## ANNOTATIONS TO THE DRAFT ORDER OF BUSINESS

### Item No. 1 Opening of the session

1. Due to the ongoing global COVID-19 pandemic, the session will be held both in person and via videoconference using the Zoom platform. The session will be opened on Monday, 17 January 2022, at 13:00 CET by the UNIDROIT Secretary-General.

To join the session, please visit the following website and enter the meeting ID and Password below as necessary: <https://zoom.us/j/91228275501?pwd=c2IzcWRxNDh1SytVc1MrTFJ5ZWJGQT09>

Meeting ID: 912 2827 5501

Password: 420059

Alternatively, participants may dial into the meeting using the below phone numbers. Where possible, participants are encouraged to participate via the above link rather than dialling-in using a phone, as participation via videoconference provides technological advantages, such as viewing screens or documents being shared by the Secretariat on the Zoom platform.

+61 8 7150 1149	Australia
+1 778 907 2071	Canada
+33 7 5678 4048	France
+49 30 5679 5800	Germany
+39 020 066 7245	Italy
+81 342 339 241	Japan
+82 2 6105 4111	Republic of Korea
+27 87 551 7702	South Africa
+34 84 368 5025	Spain
+44 208 080 6591	United Kingdom
+1 253 215 8782	United States of America

### Item No. 2 Adoption of the order of business of the session and statements from delegations regarding adoption of the MAC Protocol

2. In order to accommodate the different time zones of participating States, the hours of the session will be:

Monday 17 January: 13:00 – 17:00 CET

Tuesday 18 January: 13:00 – 17:00 CET

At the discretion of the Chair of the session, each day may have two coffee breaks at 14:15-14:30 CET, and 15:45-16:00 CET.

### Item No. 3 Consideration of matters relating to the appointment of a Supervisory Authority

3. [Resolution 2](#) of the Diplomatic Conference for the Adoption of the Draft Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Mining, Agricultural and Construction Equipment (Pretoria, 11 – 22 November 2019) noted the active participation in the preparatory work and at the Diplomatic Conference by the International Finance Corporation (IFC)

of the World Bank Group, and in the light of preliminary consultations with the said international financial institution, invited the governing bodies of the IFC to accept the functions of Supervisory Authority upon or after the entry into force of the Protocol, to take the necessary action in this regard, as appropriate, and to inform the Secretary-General of UNIDROIT accordingly.

4. At its second session, the Secretariat informed the Preparatory Commission about a letter received from the IFC which indicated that, in the light of the new strategy of the institution, it did not see itself as suitable for the role of Supervisory Authority of the International Registry to be established under the MAC Protocol. Following this, the Preparatory Commission requested the Secretariat to conduct an assessment of the suitability of the Multilateral Investment Guarantee Agency of the World Bank Group (MIGA) and the World Trade Organization (WTO) for this role. The Preparatory Commission also requested the Secretariat to approach the Organisation for Economic Cooperation and Development (OECD), the World Customs Organization (WCO), and the United Nations Conference on Trade and Development (UNCTAD) to consider the role of Supervisory Authority and report back accordingly.

5. At its third session, the Preparatory Commission decided not to pursue the possibility of offering the role to WTO and MIGA, and also took note of the seemingly lack of interest from OECD and WCO. The Commission also noted that UNCTAD and the International Fund for Agricultural Development (IFAD) continued to examine the matter internally.

6. At its third session, the Preparatory Commission reaffirmed that UNIDROIT was the backup candidate for the role of Supervisory Authority should no other existing organisation with the right profile, expertise and experience be willing to undertake the role. Subject to the ongoing negotiations with IFAD and UNCTAD, the Preparatory Commission invited UNIDROIT to initiate its internal procedures to determine whether the Institute was willing to accept the role of Supervisory Authority. The Preparatory Commission also requested that the Secretariat prepare further analysis on whether a new international body could be established to perform the role of Supervisory Authority with UNIDROIT acting as its Secretariat, as an alternative option if neither UNIDROIT nor any other existing organisation was able to accept the role.

7. Following this, at the 100<sup>th</sup> Session of the UNIDROIT Governing Council (Rome, 22-24 September 2021), the Secretariat submitted a document on the 'UNIDROIT candidacy for the role of Supervisory Authority of the MAC International Registry to be established under the MAC Protocol (C.D. (100) B.12)' for consideration. At the session, The Governing Council was asked to discuss (i) the suitability of UNIDROIT undertaking the role of Supervisory Authority of the International Registry to be established under the MAC Protocol, (ii) how the Supervisory Authority functions could be incorporated into UNIDROIT's governance structure and (iii) whether it would be necessary to amend the UNIDROIT Statute in order for UNIDROIT to undertake the role. No consensus was reached on the first of these matters, and hence the discussion on the other two was merely superficial. The Governing Council requested that the Secretariat prepare further information as to what it would entail for the Governing Council to assume a relevant role in the governance of the Supervisory Authority, and to elaborate on other relevant issues, including whether a new international entity could be created to perform the role of Supervisory Authority as an alternative. A report of the Council's deliberation can be accessed here: <https://www.unidroit.org/meetings/governing-council/100th-session-b-rome-september-2021/>.

8. Noting this, the Secretariat will return to the Governing Council at its 101<sup>st</sup> Session (Rome, May 2022) with a comprehensive document which outlines the process of, and relevant issues related to, the creation of a new international entity to perform the role of Supervisory Authority of the MAC International Registry. Among other matters, this document will explore whether setting up a new international body with UNIDROIT as its Secretariat has any significant advantages, whether it would

require an amendment to the UNIDROIT Statute, and reflect upon the experience of OTIF of having undertaken a similar process. Preliminarily, it is noted that the establishment of a new international body to perform the role of Supervisory Authority would be possible, but has potentially important implications related to costs, administration, and availability of resources.

9. Following the deliberations of the Governing Council at its 101<sup>st</sup> Session, the Secretariat will revert back to the MAC Preparatory Commission insofar as the decision of UNIDROIT on this matter.

10. The Preparatory Commission is invited to take note of the update regarding this matter and provide additional input to facilitate the UNIDROIT Governing Council's consideration of this matter.

**Item No. 4 Updates on the activities of the Working Group to develop draft regulations for the International Registry for MAC equipment**

11. At its third session, the Preparatory Commission approved the draft Regulations and agreed that the draft Regulations were sufficiently developed for inclusion in the Request for Proposals for the selection of a Registrar.

12. At the fourth session, the Preparatory Commission will be provided with an oral update from the Chair of the Regulations Working Group regarding the intersessional deliberations undertaken. The Preparatory Commission is invited to take note of these updates.

**Item No. 5 Updates on the activities of the Working Group to draft a request for proposals for the selection of a Registrar**

13. At its fourth session, the Preparatory Commission will be provided with a report for the fifth and sixth meeting of the Working Group to draft a request for proposals (RFP) for the selection of a Registrar. This will include a report of the intersessional work undertaken to further refine the RFP document.

14. This update shall be presented to the Preparatory Commission by the Chair of the Working Group. The Preparatory Commission will be provided with the draft RFP, as developed by the Working Group, and advised upon by procurement, information technology, and registry related experts from various States, for consideration and approval. The Preparatory Commission will be invited to deliberate matters related to the publication of the Request for Proposals and the selection process for the Registrar.

15. The Preparatory Commission will be invited to establish an Evaluation Committee which will be responsible to evaluating the proposals received in response to the RFP.

16. It is noted that these deliberations shall not be open to any participant representing a non-state observer institution that might have an intention to submit a tender or be involved with the submission of a tender.

**Item No. 6 Timetable and planning of further work**

17. At its fifth session, it is anticipated that the Preparatory Commission shall give consideration to the proposals received in response to the Request for Proposals discussed under Item 5. As such, the timing of the fifth session will depend on the date of publication of the Request for Proposals. The Secretariat shall update the Preparatory Commission on this matter accordingly.