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

UNIDROIT 2022
MACPC/5/Doc. 1
Original: English
October 2022

Fifth session (hybrid)
22–23 November 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 (MACPC/5/Doc. 1)
3. Consideration of the Report of the Evaluation Committee and selection of a Registrar (MACPC/5/Doc. 2)
4. Consideration of matters relating to the appointment of a Supervisory Authority
5. Updates on the activities of the Working Group to develop draft regulations for the International Registry for MAC equipment
6. Implementation update and establishment of a Ratification Task Force (MACPC/5/Doc. 3)
7. 2022 revision of the Harmonized System (MACPC/5/Doc. 4)
8. Timetable and planning of future work
9. Any other business
10. Closing of the session

ANNOTATIONS TO THE DRAFT ORDER OF BUSINESS

Item No. 1 Opening of the session

1. The 5th session of the Preparatory Commission will be held both in-person and via videoconference using the Zoom platform. The session will be opened on Tuesday, 22 November 2022, at 12:00 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

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

Tuesday 22 November 2022:	12:00 – 16:00 CET
Wednesday 23 November 2022:	12:00 – 16:00 CET

At the discretion of the Chair of the session, each day may have two coffee breaks at 13:15-13:30 CET, and 14:45-15:00 CET.

Item No. 3 Consideration of the Report of the Evaluation Committee and selection of a Registrar

3. Following the decision reached at the fourth session of the Preparatory Commission, the Request for Proposals for the International Registry for MAC Equipment (RFP) was published on 21 March 2022 and closed on 1 September 2022. Four bids were submitted before the deadline. An Evaluation Committee was established by the Preparatory Commission as consistent with MACPC/4/Doc. 3 to evaluate the bids in accordance with the criteria set out in the RFP document.

The Evaluation Committee began its work in September 2022 and is in the process of assessing the bids. The Evaluation Committee will submit a report to the Preparatory Commission one week in advance of its fifth session. The shorter than usual period of time to be provided for Preparatory Commission members to review the Evaluation Committee Report in advance of its fifth session has been necessitated by the extension of the submission deadline for the RFP from 21 July to 1 September 2022.¹

4. At its fifth session, the primary objective of the Preparatory Commission will be to consider the report of the Evaluation Committee (MACPC/5/Doc. 2) and agree upon a preferred tenderer. The preferred tenderer will then be invited to enter into negotiations with the Preparatory Commission, in its capacity as provisional Supervisory Authority of the MAC Protocol, to prepare a contract to establish and operate the International Registry for MAC equipment.

Item No. 4 Consideration of matters relating to the appointment of a Supervisory Authority

5. At the fifth session, the UNIDROIT Secretariat will provide a verbal update on UNIDROIT's internal consideration of matters relating to the appointment of a Supervisory Authority. A short summary is provided below.

6. At its third session, having concluded that no other appropriate existing organisation was in a position to undertake the role of Supervisory Authority, the Preparatory Commission invited UNIDROIT to initiate its internal procedures to determine whether the Institute was willing to accept the role. 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. At the 100th 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/wp-content/uploads/2021/12/cd-100b-24e.pdf> (paragraphs 160 – 186).

8. At its 101st session, (Rome, 8-10 June 2022), the UNIDROIT Governing Council considered a comprehensive document prepared by the Secretariat that evaluated the relative merits of (i) the suitability of UNIDROIT undertaking the role of Supervisory Authority, and (ii) establishing a separate entity to perform the role of Supervisory Authority ([C.D. 101 \(15\)](#)). While a majority of the Governing

¹ This extension was actioned based on a decision of the Preparatory Commission that was taken by written procedure in July 2022.

Council members that expressed a view on the matter supported UNIDROIT undertaking the role of Supervisory Authority, the Governing Council remained unable to reach consensus. A report of the Council's deliberation can be accessed here: https://www.unidroit.org/wp-content/uploads/2022/09/C.D.-101-21-Report-of-the-Governing-Council_07.09.22.pdf (paragraphs 285 - 310).

9. In order to work intersessionally on the matter and to allow the Governing Council to make a decision at its 102nd session in May 2023, the Governing Council decided to establish an ad hoc committee, composed of interested Governing Council Members and public international and treaty law experts, to discuss the unresolved public international law matters. Composed of 10 members, the ad hoc committee has begun its work and will report back to the Governing Council in early 2023.

10. The Preparatory Commission is invited to take note of the update regarding this matter.

Item No. 5 Updates on the activities of the Working Group to develop draft regulations for the International Registry for MAC equipment

11. At the fifth session, the Preparatory Commission will be provided with a short oral update from the Chair of the Regulations Working Group. The Preparatory Commission is invited to take note of the update.

Item No. 6 Implementation update and establishment of a Ratification Task Force

12. At the fifth session, Preparatory Commission members and observers will be invited to update the Preparatory Commission on their activities to promote and implement the MAC Protocol. Following these updates, the Secretariat will provide an update on UNIDROIT activities and a proposal for the Preparatory Commission to consider establishing a Ratification Task Force (MACPC/5/Doc. 3).

Item No. 8 Timetable and planning of further work

13. At its sixth session, it is anticipated that the Preparatory Commission shall approve the final contract with the preferred tenderer to establish the International Registry for MAC Equipment. Paragraph 177 of the [Request for Proposals](#) suggests that the Preparatory Commission should approve the final contract approximately seven months after contract negotiations begin. As contract negotiations are expected to begin in December 2022 or January 2023, it is suggested that the Preparatory Commission's sixth session be held in September 2023.