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PROTOCOL**

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IMPLEMENTATION UPDATE AND ESTABLISHMENT OF A RATIFICATION TASK FORCE

Introduction

1. This document provides an update on the implementation of the MAC Protocol in States and a recommendation that the Preparatory Commission consider establishing a Ratification Task Force for the MAC Protocol.

Background

2. There are currently three outstanding requirements for the MAC Protocol to enter into force:

- a. An International Registry must be established and become operational.
- b. A Supervisory Authority of the International Registry must be appointed.
- c. Five States must ratify the Protocol.¹

3. As of October 2022, five States (the Republic of Congo, the Republic of The Gambia, the Republic of Paraguay, the Federal Republic of Nigeria and the United States of America) and one Regional Economic Integration Organisation (the European Union) have signed the treaty. The Republic of Congo, the Republic of The Gambia, the Republic of Paraguay and the Federal Republic of Nigeria signed the Protocol at the Diplomatic Conference on 22 November 2019. The United States of America signed the MAC Protocol on 1 October 2020 at a ceremony held at the UNIDROIT Headquarters in Rome. The European Union signed the MAC Protocol on 20 September 2022.

Implementation Strategy

4. Majority of the Secretariat's resources dedicated to the MAC Protocol are required to support the operation of the Preparatory Commission, and in particular to support the selection of a Registrar (Registrar Working Group and the Evaluation Committee) and the appointment of a Supervisory Authority (the UNIDROIT Governing Council ad hoc Committee). To the greatest extent possible, the Secretariat is also working on initiatives to implement the MAC Protocol in States.

¹ The appointment of a Supervisory Authority is an administrative requirement, whereas the certification that the Registry is fully operational and the five ratifications are formal requirements under Article XXV of the Protocol.

5. To ensure its limited resources are allocated efficiently, UNIDROIT's implementation strategy is guided by four principles:

- a. **Cooperation:** UNIDROIT works in close cooperation with the MAC Working Group, international organisations and supportive Member States in promoting and implementing the MAC Protocol.
- b. **Effective prioritisation:** UNIDROIT focuses its limited technical assistance resources on States which are best positioned to ratify the MAC Protocol in the next 24 months. Assessing whether States are well positioned to ratify the MAC Protocol is based on economic, institutional and political factors.
- c. **Regional engagement:** UNIDROIT utilises international and regional fora to promote the MAC Protocol widely and to position the instrument as a tool for both international and regional trade and financial integration (e.g. EU, APEC).
- c. **Targeted impact messaging:** UNIDROIT tailors its messaging regarding the beneficial impacts of the MAC Protocol, depending on the audience. While the treaty primarily addresses access to credit issues, it is also a tool that strengthens international rule of law, international cooperation, trade, development, food security, supports financial inclusion and combats climate change.

2022 implementation update

6. In 2022, UNIDROIT has undertaken the following initiatives to promote and implement the MAC Protocol:

- i. Presentation on how the Cape Town Convention and the MAC Protocol could support the Asian Infrastructure and Investment Bank's (AIIB) core work to the AIIB Legal Department (virtual, January 2022).
- ii. Presentation on the MAC Protocol's benefits for the European Union to the European Union Working Party on Civil Law Matters (Brussels, January 2022).
- iii. Presentation of the MAC Protocol at an APEC Workshop on Modernising Secured Transaction Legal Regimes in APEC Economies (Japan, May 2022).
- iv. Presentation on the MAC Protocol as a tool for economic development in Africa to a group of African legal experts as part of the UNIDROIT Summer School (Rome, June 2022).
- v. Discussion of the MAC Protocol at the Cape Town Convention Academic Conference (Cambridge, September 2022).
- vi. Discussion regarding coordinating implementation of the MAC Protocol at the 5th Secured Transactions Coordination Conference (Rome, October 2022).
- vii. Presentation of the MAC Protocol at the Asia Pacific Private International Law Summit (Hong Kong, November 2022).
- viii. Presentation on how the Cape Town Convention and the MAC Protocol could support the core work of the Asian Development Bank (ADB) during a Bank-wide conference (Manila, November 2022).
- ix. Bilateral assistance to States working on implementation of the MAC Protocol (Cameroon, India, Indonesia, Malaysia, Mauritius, Kazakhstan, Kenya, Pakistan, Spain, Ukraine and Uzbekistan).
- x. Quarterly virtual meetings with the MAC Working Group (virtual).

Establishment of a MAC Ratification Task Force (RTF)

7. Due primarily to global disruptions caused by the COVID-19 pandemic, there has been insufficient progress towards achieving five ratifications. As such, to ensure the entry into force of

the MAC Protocol at the earliest possible date, it is essential that over the next 24 months, UNIDROIT, supportive Member States, and the private sector work collaboratively to intensively promote the ratification and implementation of the MAC Protocol.

8. In order to strengthen efforts to promote and implement the MAC Protocol, the Preparatory Commission is invited to consider establishing a MAC Protocol Ratification Task Force (RTF). The concept of establishing a MAC RTF is based on the creation of a Luxembourg Rail Protocol Ratification Task Force in 2014 to support the implementation of the Rail Protocol.

9. The RTF would be an informal group of interested stakeholders that would meet on a regular basis to coordinate strategy and initiatives to promote and implement the MAC Protocol. The RTF would be composed of:

- a. Supportive Member States
- b. Supportive International Intergovernmental and Non-Governmental Organisations
- c. The MAC Working Group (private sector stakeholders)
- d. The Registrar for the International Registry for MAC Equipment (once appointed)
- e. The Supervisory Authority (once appointed)
- f. The UNIDROIT Secretariat

10. Participation in the RTF would be on a voluntary basis and there would be no financial obligations for members. The RTF would meet virtually on a quarterly basis and operate informally to avoid creating additional administrative burden. The main objectives of the RTF would be:

- a. To develop different strategies and initiatives for the promotion and implementation of the MAC Protocol.
- b. To maintain a table tracking the implementation status of the MAC Protocol in different countries.
- c. To coordinate efforts and resources to promote and implement the MAC Protocol.
- d. To organise events to promote and implement the MAC Protocol.
- e. To develop strategies, documents and marketing materials for promoting the MAC Protocol.

11. Should the Preparatory Commission decide to establish a MAC Protocol Ratification Task Force, the UNIDROIT Secretariat could circulate invitations to interested stakeholders with the intention of holding the first meeting virtually in Quarter 1 2023.