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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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Sixth session (hybrid)
11 – 12 April 2024

**CONSIDERATION OF THE REVISED DRAFT REGULATIONS FOR THE
INTERNATIONAL REGISTRY TO BE ESTABLISHED UNDER THE MAC PROTOCOL**

A. Introduction

1. The purpose of this document is to provide the MAC Preparatory Commission with an updated version of the draft Regulations for future MAC Registry (revised draft Regulations). This document consists of a brief background, a summary of the recent deliberations of the Regulations Working Group and a brief overview of the revised draft Regulations. The amended draft Regulations are available in Annexe I of this document, and the reports from the Regulations Working Groups fifth and sixth sessions are available in Annexes II and III, respectively.
2. The Preparatory Commission is invited to consider adopting the revised draft Regulations, which will become the Baseline Regulations for the International Registry, should the Preparatory Commission decide to appoint a Registrar at this sixth session.
3. It should be noted that the revised draft Regulations (without tracked changes) are also contained in Schedule I, Appendix 1 of the draft Registry Contract in document MACPC/6/Doc. 4.

B. Background

4. At the Preparatory Commission's first session, a Working Group was established to prepare a first draft of the International Registry Regulations (Working Group). Over four sessions,¹ the Working Group prepared an almost complete draft of the Regulations and submitted the draft back to the Preparatory Commission for further consideration.
5. Following its fourth session, the Regulations Working Group submitted the draft Regulations to the Preparatory Commission. At the Preparatory Commission's third session, the Commission approved the draft Regulations and agreed that the draft Regulations were sufficiently developed for inclusion in the RFP for the selection of a Registrar. The draft Regulations were duly included as an Annex to the RFP when it was published on 21 March 2022. As the draft Regulations have not been

¹ The first session was on 14-15 September 2020 (MACPC/Regulations/W.G./1/Doc. 3), the second session was on 24 November 2020 (MACPC/Regulations/W.G./2/Doc. 4), the third session was on 19 February 2021 (MACPC/Regulations/W.G./3/Doc. 3 rev), and the fourth session was on 30 April 2021 (MACPC/Regulations/W.G./4/Doc. 5).

reviewed since 2021, in light of the potential appointment of a Registrar, the Regulations Working Group was reconvened in early 2024 to consider updating the draft Regulations in tandem with the contract negotiations for the appointment of a Registrar.

C. Summary of work undertaken by the Regulations Working Group

6. The Regulations Working Group met virtually for two additional sessions in early 2024. The Working Group's fifth session was held on 19 February, and the Working Group's sixth session was held on 19 March. Intersessionally, Working Group members were invited to submit comments on the draft Regulations, and the Working Group Chair consulted the MAC Registry preferred bidder on the draft Regulations.

7. Following the sixth session, the Working Group approved a revised version of the draft Regulations circulated by the Chair, which is now available for consideration by the Preparatory Commission in Annexe I of this document. For ease of reference, the revised version has changes tracked from the version of the draft Regulations previously approved by the Preparatory Commission.

8. On reviewing the draft Regulations, the Working Group found that very few additional revisions were required. A summary of the main proposed changes made to the revised draft Regulations are as follows:

- (a) General Provisions (Section 3.8): The regulations have been amended to clarify that the restriction on the use of information obtained through the International Registry for marking, promotional or commercial purposes does not apply to ancillary services approved by the Supervisory Authority.
- (b) Registration of International Interests (Section 5.1): The regulations have been amended clearly differentiate between ISO-compliant serial numbers assigned to the object by the manufacturers as the primary identification criterion, and a non-ISO-compliant alphanumeric serial number assigned to the object by the manufacturer.
- (c) Amendments of registrations (Section 5.11): The regulations have been amended to clarify that the amended of information required to identify an object for registration under Section 5.1(c)(ii) shall only be effective for priority purposes from the time the amending registration is complete.
- (d) Formatting and cross reference update: The regulations have also had some formatting and cross-reference improvements, including rectifying an error in the numbering in Section 5.1 which had inadvertently caused problems in subsequent cross-references.

9. During its fifth and sixth sessions, the Working Group also discussed several other matters, including several issues noted by the MAC Registry preferred bidders. These matters include the treatment of registrable non-consensual rights and interests, the Registrar's discretion in relation to certain matters and Languages. The Working Group decided that these matters might warrant further consideration in the future but were unnecessary to address in the Baseline Regulations.²

10. There are several other issues identified in the footnotes to the revised draft Regulations that might also require further future consideration. Finally, the revised draft Regulations continue to defer certain matters to be addressed in the Procedures, which have not yet been drafted.

² More details regarding these issues are contained in the Working Group sixth session Report, available in Annexe III of this document.

D. Next Steps

11. If the Preparatory Commission approves the revised draft Regulations and the draft MAC Registry Contract, the revised draft Regulations will become the Baseline Regulations under the contract. In such a scenario, the Preparatory Commission will continue to work with the entity appointed to establish and operate the Registry to make any further necessary amendments to the Regulations. However, it is important to note that any future amendments to the Baseline Regulations would be subject to the regulations amendment procedure set out in Clause 8 of the draft Registry Contract.

E. Recommendation

12. The Regulations Working Group recommends that the Preparatory Commission consider approving the revised draft Regulations.

F. Decision

13. The Preparatory Commission is invited to consider the revised draft Regulations, as contained in Annexe I of this document. The Preparatory Commission is further invited to consider approving the revised draft Regulations, and incorporating them into the draft MAC Registry Contract as the Baseline Regulations in Schedule I Appendix 1.

ANNEXE I**BASELINE REGULATIONS FOR THE INTERNATIONAL REGISTRY FOR THE
CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON
MATTERS SPECIFIC TO MINING, AGRICULTURAL AND CONSTRUCTION
EQUIPMENT****March 2024**



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

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March 2024

BASELINE REGULATIONS FOR THE INTERNATIONAL REGISTRY

(Article 17(2)-(d) of the Convention on International Interests in Mobile Equipment and Article XV of the MAC Protocol)

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Section 1 AUTHORITY

These Regulations are issued by the Supervisory Authority pursuant to Article 17(2)(d) of the *Convention on International Interests in Mobile Equipment* ("Convention") and are authorised by the *Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Mining, Agricultural and Construction Equipment* ("Protocol").

Section 2 DEFINITIONS

- 2.1 Terms defined in the Convention and the Protocol shall have the same meanings in these Regulations. In addition, the following terms shall have the meanings set out below:
- 2.1.1. "Accountholder" means a person who holds an account that it has established under Section 4.1(b).
- 2.1.2. "Administrator" means the person with authority to act on behalf of an accountholder on administrative matters in dealings with the International Registry, including his/her acting administrator. It also includes, in the case of an accountholder that is a natural person, that person.
- 2.1.3. "Amendment", unless the context suggests otherwise, means any change in registration information, including any change in the lapse date of a registration, but does not include assignment, subrogation or subordination.
- 2.1.4. "Authorisation" means an authorisation referred to in Section 4.2.
- 2.1.5. "Consent" means an electronic consent to a registration.
- 2.1.6. "Contact information" means, with respect to the entity or natural person to whom such information relates, such entity's or natural person's name, administrator and that administrator's telephone number and electronic address.
- 2.1.7. "entry point user" means an official, employee, member or partner of an entry point.
- 2.1.8. "Entry point" means an entity designated by a Contracting State as contemplated by Section 13.
- 2.1.9. "Fee Schedule" means a schedule issued by the Supervisory Authority in accordance with section 14.3 and which is in force at the relevant time.
- 2.1.10. "Identity information" means the following in respect of the entity or natural person for whom the identifying information is sought:
- (a) the name, principal physical address, and date of birth for a natural person:
 - (b) the name, state of incorporation or formation, and principal physical business address for an entity; and
 - (c) any other information reasonably required by the Registrar.
- 2.1.11. "Named party" means, for a registration, a person referred to in Article 20 of the Protocol in relation to that registration.
- 2.1.12. "Registered information" means the category of registration, together with the information entered in the International Registry to effect such registration pursuant to Sections 5.1(b), (c), (d) and (g), 5.2(a), (b) and (c), 5.3(a) and (c), 5.4(a) and (c), 5.7(a), 5.9(a), (c) and (d), 5.10(a), (c) and (d), 5.12, 5.14(a)(ii), and 5.15.1(d), in each case as applicable to such category of registration, and shall include any

correction or discharge of a registration pursuant to Section 5.16. The name and the electronic signature of the registering person, and the contact information of the persons to which the International Registry is required to send notices pursuant to Section 6, shall not be regarded as registered information. For purposes of a registration under Section 5.2, the name of the accountholder that effects the registration shall be regarded as registered information.

2.1.13. "Registering person" means the person transmitting information to the International Registry to effect a registration.

2.1.14. "Registration" means an interest electronically registered with the International Registry. For the purposes of Sections 4.4, 6 and 13.4, the term has the extended meaning set out in Section 6.1.

2.1.15. "R-NCRI authorisation" means a registrable non-consensual right or interest authorisation that confers the authority to effect or amend the registration that is contemplated by Section 5.2 and Section 5.10.

2.1.16. "Searching person" means a person making a search in accordance with Section 7 or 8 of these Regulations.

2.1.28. The term or terms:

(a) "Procedures" has the meaning set out in Section 16.1; and

(b) "priority search", "priority search certificate", "informational search", "informational search listing", "Contracting State search", "Contracting State search certificate", "accountholder search" and "self-search" have the meanings set out in Section 8.

Section 3 GENERAL PROVISIONS

3.1 The International Registry is established as the facility for effecting and searching registrations under the Convention and the Protocol.

3.2 Since the International Registry merely provides notice of registrations, the facts underlying any such registration or registered interest shall determine whether it falls within the scope of the Convention and the Protocol. Without limiting the foregoing, registrations of pre-existing rights and interests or assignment thereof shall have no legal effect under the Convention and the Protocol, except where, by virtue of a declaration under Article 60(3) of the Convention, registration thereof is required. The contents of this Section 3.2 shall be prominently displayed by the International Registry as a general cautionary note on its website. Neither this Section, nor the technical function of the Registry, shall relieve any party making a registration that ought not to have been made or is incorrect, from liability under applicable law.

3.3 The Registrar shall perform the functions specified in the Convention, the Protocol, these Regulations and the Procedures.

3.4 The International Registry shall be accessible 24 hours a day, 7 days a week, except if precluded by maintenance performed outside peak periods, or technical or security problems, as set out in the Procedures.

3.5 The Registrar shall not undertake other operations or responsibilities nor permit other parties to have access to or use the facilities of the International Registry without the prior written consent of the Supervisory Authority.

- 3.6 Technical support shall be provided to registering persons, searching persons and administrators by a help desk of the International Registry, which shall be available during times set out in the Procedures.
- 3.7 The International Registry may be used for no other purpose than that set forth in Sections 3.1 and 3.2, unless approved in advance by the Supervisory Authority and subject to the terms of that approval.
- 3.8 Information obtained from or through the International Registry about an entity or natural person shall not be used for marketing or promotional purposes or other commercial purposes unrelated to the use of the International Registry, other than as approved by the Supervisory Authority.
- 3.9 The Registrar may collect and store transaction, technical and payment logs necessary for the efficient and secure operation of the International Registry.

Section 4 ACCESS TO THE INTERNATIONAL REGISTRY

4.1 Access to the International Registry

(a) Subject to paragraph (c), the International Registry may only be accessed through an account or an entry point.

~~(a)~~(b) A person who wants to establish an account:

- (i) must apply to the Registrar in accordance with the Procedures; and
- (ii) must provide the Registrar with such information as the Registrar requires to demonstrate the existence of the person and the authority of the individual who is making the application on the person's behalf.

~~(b)~~(c) A person may also search the International Registry under section 8 directly, in accordance with these Regulations and the Procedures.

4.2 Authorised individuals

(a) An accountholder may authorise one or more individuals to make or consent to registrations on its behalf. An accountholder may also authorise another accountholder to make or consent to registrations on its behalf.

~~(a)~~(b) Authorisations referred to in paragraph (a) must be provided in accordance with the Procedures.

4.3 Registrations and consents

(a) Subject to paragraph (b), a person may only make or consent to a registration if the person is:

- (i) a named party to the registration; or
- (ii) authorised in accordance with section 4.2 to do so on behalf of a named party to the registration,

and the registration is made or the consent is provided through either an account or an entry point, and in accordance with these Regulations and the Procedures.

- (b) A debtor that does not have an account may consent to a registration in accordance with the mechanisms that are provided for this purpose by the Procedures.

Section 5 INFORMATION REQUIRED TO EFFECT REGISTRATION

~~Registration of an international interest, a prospective international interest or a notice of national interest~~

5.1 Registration of an international interest, a prospective international interest or a notice of national interest

The information required to effect the registration of an international interest, a prospective international interest, or a notice of a national interest is:

(a) [the electronic signature of the registering person];¹

~~(a)~~(b) the name of each of the named parties;

~~(b)~~(c) the following information identifying the object:

- (i) (A) the ~~object's~~ ISO-compliant serial number that is assigned to the object by the manufacturer, if it has one;² or
 - (B) if the object does not have an ISO-compliant serial number, the non-ISO-compliant alphanumeric serial number that is assigned to the object by the manufacturer-; and
- (ii) ~~i~~ If the object does not have an ISO-compliant serial number as referred to in subparagraph (i)(A), all of the following:
 - (A) the brand name for the equipment or, if unavailable, the name of the manufacturer;
 - (B) the manufacturer's generic model designation; and
 - (C) one other item of descriptive information about the equipment, if so required by the Procedures;
- (d) the lapse date of the registration, if the registration is to lapse prior to a discharge;
- (e) in the case of an international interest or a prospective international interest, the consent of the relevant parties, given under an authorisation;
- (f) the electronic addresses of the persons to which the International Registry is required to send information notices pursuant to Section 6; and
- ~~(g)~~ if the named parties include more than one creditor, the name of the creditor who is to hold the sole right to consent to the discharge of that registration. ~~and~~

¹ Further consideration may be given to whether the term "electronic signature" could be changed to a more technologically neutral term. "Electronic signature" is not currently defined in Section 2.

² Further consideration needs to be given to the possibility of one object having multiple ISO compliant serial numbers.

~~(h) — [the electronic signature of the registering person]³.~~

~~(i)(g)~~

~~Registration of an R-NCRI~~

5.2 Registration of an R-NCRI

The information, certification, documents and agreement required to effect the registration of an R-NCRI to which Article 40 of the Convention applies are:

- (a) the information referred to in Sections 5.1(a), (b), (c), (d), (f) and (g), including, in the case of Section 5.1(f), the electronic address of the primary obligor with respect to the obligation that is secured by the R-NCRI;
- (b) the name of the Contracting State under whose laws the R-NCRI has been conferred;
- (c) the category of registrable non-consensual right or interest, as listed in the declaration of the Contracting State specified in Section 5.2(b), within which the R-NCRI being registered falls;
- (d) the certification of the party named in the registration as the holder of the R-NCRI to which the registration relates, that (i) the R-NCRI has been validly conferred under the laws of the Contracting State specified in Section 5.2(b), and (ii) all of the registration information being provided to effect the registration is accurate and complete;
- (e) documentary evidence pertaining to the R-NCRI, in electronic format;
- (f) the agreement of the party named in the registration as the holder of that R-NCRI that by effecting such registration it submits itself to the jurisdiction of the courts of the place in which the Registrar has its centre of administration in relation to legal action under Article 44 of the Convention with regard to the registration, and that it shall be liable to the Registrar for all costs incurred by the Registrar arising out of the legal action unless the validity of the registration is upheld; and
- (g) such evidence as is necessary to enable the Registrar to reasonably conclude, without undertaking specific legal analysis, that the registering person has the authority from the person named in the registration as the holder of that R-NCRI to make the certification and agreement required by Sections 5.2(d) and (f), respectively.

The registering person of a registrable non-consensual right or interest registration must either hold, or be the administrator that is entitled to issue, an R-NCRI authorisation.

~~Registration of a notice of sale~~

5.3 Registration of a notice of sale

_____ The information required to effect the registration of a notice of sale, which shall be subject to Article XX of the Protocol, is:

³_____ Further consideration may be given to whether the term “electronic signature” could be changed to a more technologically neutral term. “Electronic signature” is not currently defined in Section 2.

- (a) the information referred to in Sections 5.1(a), (b), (c) and (f); and
- ~~(b)~~—the consent of the named parties, given under an authorisation.
- ~~(c)~~~~(b)~~

~~Registration of an assignment~~

5.4 Registration of an assignment

The information required to effect the registration of the assignment of an international interest, the prospective assignment of an international interest, or the assignment of a registrable non-consensual right or interest is:

- (a) the information referred to in Sections 5.1(a), (b), (c), (f) and (g);
- (b) the consent of the named parties, given under an authorisation; and
- (c) if the interest being assigned is a registered interest:
 - (i) the file number of the registration relating to that interest (in the case of the initial assignment); or
 - (ii) the file number of the registered assignment by which the assignor acquired its rights in that registered interest (in the case of all subsequent assignments); and
- (d) if the interest being assigned is not a registered interest:
 - (i) a description of the interest assigned and the debtor thereunder, using the format prescribed by the Procedures (in the case of the initial assignment of an unregistered interest); or
 - (ii) the file number of the registered assignment by which the assignor acquired its rights in that registered interest (in the case of all subsequent assignments).

~~Registration of a block assignment~~

[5.5 Registration of a block assignment

The International Registry may provide a facility permitting the registration of all assignments included in a “block assignment registration request”. A “block assignment registration request” shall include:

- (a) an electronic certification by the assignor that all of the underlying interests evidenced by registrations on the International Registry identified in the block assignment registration request have been assigned to the assignee; and
 - (b) a consent thereto given by the assignee,
- each given under an authorisation.]⁴

~~Registration of a subordination~~

5.6 Registration of a subordination

⁴ Should a Closing Room type function be built into the MAC Registry, consideration may be given to deleting this section.

The information required to effect the registration of a subordination of an international interest, an assignment and prospective assignment of an international interest, a prospective international interest, a national interest, an interest acquired by subrogation, an R-NCRI, the interest of a lessee under a lease, or the interest of a buyer under a conditional sale is:

- (a) ~~the file number of the registration relating to the interest being subordinated;~~ the information referred to in Sections 5.1 (a), (b), (c), (f) and (g), and, for the purposes of the foregoing reference to Section 5.1 (b) and for the purposes of Section 5.9 (b), the “named parties” shall be the named parties subordinating their interest and benefiting from that subordination;
- (b) the consent of the named party whose interest is being subordinated, given under an authorisation;
- (c) if the interest being subordinated or benefiting from the subordination is a registered interest, and has not been assigned or acquired by subrogation, the file number relating to each such interest;
- (d) if the interest being subordinated or benefiting from the subordination is a registered interest that has been assigned, the file number of the registered assignment by which the party granting the subordination acquired its rights in that registered interest and, if applicable, the file number of the registered assignment by which the party benefiting from the subordination acquired its rights in the interest benefiting from the subordination;
- (e) if the interest being subordinated or benefiting from the subordination is a registered interest that was acquired by subrogation, the file number of the registered subrogation by which the party granting the subordination acquired its rights in that registered interest and, if applicable, the file number of the registered subrogation by which the party benefiting from the subordination acquired its rights in the interest benefiting from the subordination; and
- ~~(f)~~—if the interest being subordinated or benefiting from the subordination is not a registered interest, a description of such interest and the debtor thereunder, using the format prescribed by the Procedures.

~~(g)~~(f)

~~Registration of a subrogation~~

5.7 Registration of a subrogation

The information required to effect the registration of the acquisition of an international interest through subrogation is:

- (a) the information referred to in Sections 5.1 (a), (b), (c) and (f);
- (b) the consent of the subrogee, given under an authorisation;
- (c) if the interest being acquired by subrogation is a registered interest, the file number of the registration relating to that interest (in the case of the initial acquisition by subrogation of a registered interest), or if such interest has been assigned, the file number relating to such assignment; and
- ~~(d)~~—if the interest being acquired by subrogation is not a registered interest, a description of the interest acquired by subrogation and the debtor thereunder, using the format prescribed by the Procedures, or if such interest has been assigned, the file number relating to such assignment.

~~(e)~~(d)

~~Registration of a pre-existing right or interest~~

5.8 Registration of a pre-existing right or interest

The information required to effect the registration of a pre-existing right or interest to which Article 60 of the Convention applies is:

- (a) the information referred to in Sections 5.1 (a), (b), (c), (d), (f) and (g);
- (b) the name of the Contracting State under whose laws the pre-existing right or interest was constituted; and
- ~~(c)~~—the certification of the party named in that registration as the holder of the pre-existing right or interest to which the registration relates, that (i) the pre-existing right or interest has been validly conferred under the laws of the Contracting State specified in Section 5.8 (b), and (ii) all of the registration information being provided to effect the registration is accurate and complete.

~~(d)~~(c)

~~Amending a registration (other than an R-NCRI)~~

5.9 Amending a registration (other than an R-NCRI)

Subject to Section 5.11, the information required to amend a registration (other than a registration of an R-NCRI) is:

- (a) the information referred to in Section 5.1(a), (b), (c) and (f);
- (b) the consent of the named parties that consented to the registration to be amended and, where a right of consent to discharge a registration has been transferred, the consent of the party having this right in place of the immediate transferor, in each case given under an authorisation;
- (c) the file number of the registration to be amended; and
- ~~(d)~~—the amendments to be made.

~~(e)~~(d)

~~Amending a registration of an R-NCRI~~

5.10 Amending a registration of an R-NCRI

Subject to Section 5.11, the information required to amend a registration of an R-NCRI is:

- (a) the information referred to in Section 5.2(a);
- (b) the file number of the registration to be amended;
- (c) the amendments to be made; and
- (d) the certification required by Section 5.2(d).

The registering person of an amendment of an R-NCRI registration must either hold, or be the administrator that is entitled to issue, an R-NCRI authorisation.

~~Rules for amendments~~5.11 Rules for amendments

The following shall apply in respect of amendments to and discharges of amendments to registrations:

- (a) registration of an amendment of information referred to in Section 5.1(c)(i) [or a change of a category of registration] shall be treated as a new registration in respect of the object [or category] to which the amending registration refers, with priority ranking from the time the amending registration is complete. The named parties making or consenting to the amendment shall also be taken to have consented under an authorisation to the discharge of the previous registration, which shall be effected automatically;
- ~~(b)~~ (b) registration of an amendment of information referred to in Section 5.1(c)(ii) shall only be effective for priority purposes from the time the amending registration is complete;
- ~~(b)~~(c) registration of an amendment in which the information referred to in Section 5.1(b) has been changed shall require the consent of the named parties that consented to that registration and of the named party to be specified in the amended registration, each given under an authorisation;
- ~~(c)~~(d) registration of an amendment in which the information referred to in Section 5.1(d) has been changed shall have no effect on the priority of the original registration for the amended duration of that registration. The foregoing is without prejudice as to whether a new underlying interest has been constituted that is registrable under the Convention; and
- ~~(d)~~(e) when a registration is discharged, the party consenting to that discharge shall be taken to have consented under an authorisation to the discharge of all amendments to that registration, which shall be effected automatically.

The consent requirements of Section 5.11(a) and ~~(c)~~ shall, in the case of an amendment of a registration of an R-NCRI, be limited to the party named in the registration as the holder of such registrable non-consensual right or interest.

~~Registering fractional or partial interests~~5.12 Registering fractional or partial interests

Any registration may specify that:

- (a) it covers a fractional or partial interest in mining, agricultural or construction equipment and, if so, the extent of such interest; and/or
- ~~(b)~~ — multiple named parties hold or have granted an interest evidenced thereby.
- ~~(c)~~ —
- ~~(d)~~(b)

~~Rules for fractional or partial interests~~5.13 Rules for fractional or partial interests

With respect to an interest referred to in Section 5.12 (a):

- (a) an increase or decrease to such interest arising by virtue of a sale or an assignment of an international interest shall be registered as such in accordance with Section 5.1 or 5.4, respectively; and
- (b) a decrease in such an interest arising by virtue of payment of a secured obligation shall be partially or wholly discharged in accordance with Section 5.15.

~~Entity name change~~

5.14 Entity name change

The International Registry will provide a facility for notice of a change of the name of an accountholder by means of a "name change notification". For purposes of the foregoing, a "change of name" means either that the accountholder has changed its name, that any rights or interests of the accountholder reflected on the International Registry have become vested in another accountholder as a result of a merger, a change in entity form or otherwise by operation of law, or that a correction is required due to an error in its name. In such a case:

- (a) the information required to submit a name change notification to the International Registry is:
 - (i) the name currently shown on the International Registry for the entity which is to be changed, and its other identity information;
 - (ii) the name which is to supersede the name being changed, and in any case where rights and interests reflected on the International Registry have vested in a different accountholder, the corresponding entity's other identity information and contact information; and
 - (iii) the name and electronic signature of the relevant accountholder and a statement on whose behalf that person is acting, and in any case where rights and interests reflected on the International Registry have vested in a different accountholder:
 - (A) the name and electronic signature of such other accountholder and a statement on whose behalf that person is acting; and
 - (B) the election specified in Section 5.14(c)(ii)(B);
- (b) the Registrar shall confirm that a name change notification satisfies the requirements of this Section 5.14 following the standard set out in Section 4.1, and a name change shall take effect on the later of such confirmation by the Registrar and completion of the actions required in Section 5.14(a)(iii);
- (c) when a name change takes effect:
 - (i) all rights and interests reflected on the International Registry in which the accountholder specified in Section 5.14(a)(i) is a named party shall, without amending registered information or registering an assignment of such rights and interests, be annotated to advise of the change of name, such annotation to be included in all priority search certificates; and
 - (ii) in any case where rights and interests reflected on the International Registry have vested in a different accountholder:
 - (A) the accountholder in which such rights and interests have vested shall retain its status as an accountholder for the purposes of the

International Registry and all authorisations given or held by or on behalf of such accountholder shall remain in full force and effect; and

(B) all authorisations given or held by or on behalf of the accountholder specified in Section 5.14(a)(i) shall either remain in full force and effect or shall be extinguished, as elected by such accountholder; and

(d) a name change shall have no effect on the validity or priority of any registration or other rights or interests.

The Registrar may reverse the name change and remove the name change history in cases where the Registrar satisfies itself that no such name change took place.

5.15 **Discharge of a registration**

5.15.1 The information required to discharge a registration is:

- (a) the information referred to in Sections 5.1(a) and (f);
- (b) except as provided in Section 5.15.2, the consent of the named party or parties benefiting from the registered interest, or of the party holding the right to consent to the discharge of such interest in accordance with Section 5.15.3, given under an authorisation; and
- (c) the file number of the registration to be discharged.

5.15.2 The parties mentioned in Section 5.15.1(b) and (c) do not include the debtor, assignor, subrogor or person subordinating the registered interest.

5.15.3 A named party referred to in Section 5.15.1(b) may electronically transfer to an accountholder, with the consent of that entity, the sole right to consent to the discharge of such registration. Such sole right to consent to the discharge may be further transferred by a holder thereof to another accountholder with the consent of the latter.

5.15.4 The party or parties benefiting from a registration, the party holding the right to consent to the discharge of a registration under Section 5.1(g) or, if such right has been transferred, the transferee of such right, shall have the sole right to consent to

~~Correcting an error of the International Registry system~~

5.16 Correcting an error of the International Registry system

The Registrar may correct an error in a registration or a discharge or the chronological order of registrations, or discharge a registration, if such error is created by a malfunction in the International Registry, provided that such correction or discharge shall be effective only from the time it is made and shall have no effect on the priority of any other registration. If such correction or discharge would change the registered information that would otherwise appear on a priority search certificate, notice that such correction or discharge has been made by the Registrar shall appear on all priority search certificates relating to the equipment.

The Registrar shall promptly give notice of any such correction or discharge to the named parties in the original registration and, if different, the registering person, other parties with registered interests in that equipment, and those who have

conducted a priority search on that equipment since the time of the original registration.

Alternatively, the Registrar may request the named parties to the original registration to amend or discharge that registration, leave that registration in place as registered, or seek an order from a court with jurisdiction under Article 44(1) of the Convention.

~~Closing room~~

5.17 Closing room

The International Registry may provide a closing room facility ("closing room") permitting accountholders to assemble the information required to effect a registration in advance of completing such registration and, in the case of multiple registrations in respect of one or more objects, to establish the chronological order of such registrations. The Appendix to these Regulations describes the closing room, including the conditions and procedures for:

- (a) assembling information prior to any registration taking effect;
- (b) entering registrations into the International Registry data base containing such information; and
- (c) making such registrations searchable, and establishing the order, date and time of entry of such registrations in the International Registry data base;

and in the cases of (b) and (c) above, for the purposes of Articles 18 (4) and 19 of the Convention.

~~Court orders~~

5.18 Court orders

The Registrar may make, amend or discharge a registration on the Registry without following the procedures set out elsewhere in this Section 5 if it is ordered to do so by a court of competent jurisdiction in the place where the Registrar has its centre of administration.

Section 6 CONFIRMATION AND NOTICE OF REGISTRATION

6.1 In this Section, the term "registration" includes, where appropriate, an amendment, extension, or discharge of a registration or transfer of the right to consent to the discharge of a registration.

6.2 The International Registry shall send prompt electronic confirmation of a registration to the named parties, the registering person and all other persons entitled to receive notice of that registration under Section 5. The receipt or non-receipt of such confirmation does not imply that the registration has or has not been effected, that fact being determinable solely by means of a priority search.

6.3 When a registration is effected relating to an object, an electronic notice thereof shall be sent to the named parties and registering person of any other registration which has not been discharged relating to that object.

- 6.4 The confirmation and notice referred to in Sections 6.2 and 6.3, respectively, shall include the registered information specified in Section 5 relating thereto and the file number of the registration.
- 6.5 Named parties may electronically elect not to receive the notices referred to in Section 6.3. Such elections shall require digital signatures. Accountholders may request not to receive electronic notices in respect of one or more objects of equipment or registrations.

Section 7 CONSENTS

- 7.1 Where a section of these Regulations states that the consent of a party to a transaction is required to a proposed action on the Registry and the party is an accountholder, the consent is to be provided under an authorisation.
- 7.2 Where a section of these Regulations states that the consent of a party to a transaction is required to a proposed action on the Registry and the party is not an accountholder, the consent is to be provided in accordance with the Procedures.

Section 8 SEARCHES IN THE INTERNATIONAL REGISTRY

- 8.1 Searches of the International Registry in respect of an object shall be made using only the- serial number for that object that is specified in Section 5.1(~~cb~~)(i)(A) or (B).

Such a search may be by means of a priority search or informational search, as set out in Sections 8.2 and 8.3, respectively. A Contracting State search and an accountholder search may also be made, as set out in Sections 8.5 and 8.6, respectively. A search, other than a self-search pursuant to Section 8.7, may be performed by any person who complies with the Procedures, whether or not that searching person has a specific interest. A self-search of a particular accountholder (including any of its controlled entities) may be performed only by the administrator or replacement administrator of the entity in question where that administrator or replacement administrator complies with the Procedures. All searches shall be performed by electronic means.

- 8.2 A "priority search" is a search for registration information using the criterion specified in Section 8.1. Such information is searchable for purposes of Articles 19(2) and (6) of the Convention and Article XVIII(1) of the Protocol.
- 8.3 An "informational search" is a search (other than a priority search) that is based on the criterion specified in Section 8.1 but uses such algorithms as may be provided by the Registry system to produce a list of close matches to the entered search data. The results of an informational search, an "informational search listing", shall be a list of all such close matches. The facility to perform such an informational search does not make that information searchable for purposes of Articles 19(2) and (6) of the Convention and Article XVIII(1) of the Protocol.
- 8.4 A "priority search certificate" is a certificate issued in response to a priority search. It shall:
- (a) set out the information required by Article 22(2)(a) or (b) of the Convention, as applicable, and comply with Article 22(3) of the Convention;

- (b) if Article 22(2)(a) of the Convention applies, list the registered information in both:
 - (i) chronological order; and
 - (ii) a manner that indicates the transactional history of each registered interest; and
- (c) indicate the current holder of the right to consent to the discharge a registration and set out in chronological order when that right has been transferred and the parties executing such transfer; and
- (d) set out the electronic address of each of the named parties to the registration and of the current holder of the right to consent to the discharge of such registration, such addresses in each case to be based upon the most current contact information provided to the International Registry.

8.5 A “Contracting State search” is a search for all declarations and designations, and withdrawals thereof, made under the Convention and the Protocol by the Contracting State specified in the search. A “Contracting State search certificate” is a certificate issued in response to a Contracting State search. A Contracting State search certificate shall:

- (a) indicate, in chronological order, all declarations and designations, and withdrawals thereof, by the specified Contracting State;
- (b) list the effective date of ratification, acceptance, approval or accession of the Convention and the Protocol, and of each declaration or designation, and withdrawal thereof, by the specified Contracting State; and
- (c) attach, in the electronic form set out in the Procedures, a copy of all instruments deposited by the specified Contracting State relating to items within the scope of Section 8.5(b).

8.6 An “accountholder search” is a search for the accountholder and the accountholder’s contact information. When conducted by an accountholder, the search result shall indicate whether or not such accountholder’s account is active.

8.7 A “self-search” is a search against a particular accountholder that shall return a priority search certificate for each object, or sub-set thereof, in which the accountholder is a named party. The searching party may limit the results by date, entity or as otherwise permitted on the website. An electronic notification will be sent to the relevant back-up contact each time a self-search is initiated.

8.8 Each search certificate and listing shall be issued and made available in electronic form. Upon request, a printed copy of a priority search certificate or Contracting State search certificate shall be provided by the Registrar.

Section 9 OPERATIONAL COMPLAINTS

9.1 Any person may submit a complaint to the Registrar concerning the operation of the International Registry. If not satisfactorily addressed by the Registrar, that complaint may be further submitted by that person to the Supervisory Authority pursuant to the Procedures. For the purposes of Section 9.1:

- (a) a matter “concerns the operation of the International Registry” when the matter relates to general procedures and policies of the International Registry

and does not involve specific adjudication by the Registrar or Supervisory Authority.

(b) a person making a complaint shall substantiate his/her assertions in writing.

9.2 The Supervisory Authority shall consider complaints and where, on the basis of that consideration, it determines changes in the procedures or policies are appropriate, it shall so instruct the Registrar.

9.3 The Procedures shall set out details relating to the procedure contemplated by Sections 9.1 to 9.4.

Section 10 CONFIDENTIALITY

All information in the International Registry shall be confidential except where it is:

- (a) provided by the Registrar under Section 5.2(e);
- (b) provided by the Registrar in response to a search under Section 8;
- (c) made electronically available to enable registering persons to effect, amend or discharge registrations;
- (d) provided to the Supervisory Authority at the latter's request;
- (e) submitted by the Registrar in court proceedings under Article 44 of the Convention;
- (f) used for the purposes of the statistics required by Section 11, or
- (g) required to be disclosed by applicable law or authorised to be disclosed by the Supervisory Authority.

Section 11 STATISTICS

11.1 The Registrar shall maintain updated registration statistics and shall publish them in an annual report. This report shall be electronically accessible to any person.

11.2 The registration statistics under Section 11.1 shall consist of:

- (a) transactional volumes and revenues, subdivided, in each case, by registration type and geographic distribution, and
- (b) other compilations of non-confidential information requested by the Supervisory Authority.

Section 12 ANNUAL REPORT TO THE SUPERVISORY AUTHORITY

12.1 The Registrar shall prepare an annual report, including statistical data referred to in Section 11, and shall submit it to the Supervisory Authority.

Section 13 RELATIONS WITH THE ENTRY POINTS

13.1 A Contracting State may only designate an entry point in respect of

registrations relating to international interests in equipment where the debtor is located within its territory at the time of the registration of the international interest.

13.2 A Contracting State designating an entry point shall notify the Depositary and the Supervisory Authority thereof. The Supervisory Authority shall keep the Registrar informed of such designations, and the Registrar shall maintain a current list thereof that is electronically accessible to users.

13.3 An entry point shall only transmit a registration when the conditions established by it have been satisfied, such conditions to be consistent with the Convention, the Protocol, and these Regulations, and the named parties in that registration are approved transacting user entities. Subject to the receipt by the International Registry of the consent from each party whose consent is required under the Convention, the Protocol and these Regulations, including, if so required, the named parties in the subject registration, a registration transmitted by an entry point shall be effected when received by the International Registry.

13.4 ~~Without prejudice to Section 13.4, the~~The Registrar shall establish arrangements applicable to the electronic transmission of registration information from, or authorised by, entry points to the International Registry and, after consultations with each designated entry point, shall specify the procedures applicable to that entry point. Such arrangements between an entry point and the International Registry shall not impose any additional cost on the International Registry and shall not adversely affect the functioning of the International Registry system or impose a burden on International Registry resources.

~~13.6~~

Section 14 FEES

14.1 The Registrar shall collect a fee prior to undertaking services relating to the International Registry.

14.2 Fees, including fees arising from operations through an entry point, must be paid to the Registrar prior to the requested operation unless otherwise agreed between the Registrar and such entry point.

14.3 Fees shall be established and adjusted by the Supervisory Authority, as required by the Convention and the Protocol.

14.4 Fees shall be collected according to a schedule issued by the Supervisory Authority, which shall state the amount of fees payable for each service.

Section 15 LIABILITY AND INSURANCE OF THE REGISTRAR

15.1 For the purposes of Article 28(1) of the Convention, "loss suffered" means loss or damage resulting from an error or omission of the Registrar and its officers and employees or from a malfunction of the international registration system, except as provided for by Article 28 of the Convention, but does not include loss or damage resulting from lack of access to the International Registry as a result of measures referred to in Section 3.3 of these Regulations.

- 15.2 Any claim against the Registrar under Article 28(1) of the Convention:
- (a) shall be made in writing within the time period applicable under the laws of the State where the International Registry is located;
 - (b) shall only be made following consultations between the claimant and the Registrar; and
 - (c) if not resolved by such consultations may be pursued by the claimant in accordance with Article 44 of the Convention.
- 15.3 The Procedures shall set out details relating to the procedure contemplated by Section 15.2.
- 15.4 For the purposes of the second sentence of Article XVIII(4) of the Protocol, the liability of the Registrar is determined not to exceed 5 million Special Drawing Rights per event of loss. An event of loss comprises all losses suffered as a result of the same error or omission or malfunction insofar as the losses are compensable under Article 28(1) of the Convention.
- 15.5 For the purposes of Article XVIII(7) of the Protocol, the amount of insurance or financial guarantee shall not be less than 5 million Special Drawing Rights per event of loss. The Registrar is obliged to maintain such coverage through insurance or financial guarantee for the term of its appointment and under such conditions as set by the Supervisory Authority.

Section 16 PROCEDURES

- 16.1 Procedures addressing items required by these Regulations or otherwise relating to the technical operation and administrative processes of the International Registry shall be established by the Supervisory Authority and shall be complied with by all accountholders, registering persons and searching persons.
- 16.2 Without restricting their content, the Procedures shall set out the technical and administrative processes for:
- (a) effecting, amending and discharging registrations and making and obtaining copies of searches; and
 - (b) obtaining the approvals and authorisations required to access the International Registry.

Section 17 PUBLICATION

- 17.1 The authentic version of these Regulations and the Procedures shall be published in an official publication of the Supervisory Authority.
- 17.2 The Registrar shall make an electronic version of the authentic texts referred to in Section 17.1, as may be amended as contemplated by Section 18, available to the public at no cost.
- 17.3 Copyright in all documents published and information displayed on the website of the International Registry or published by the Supervisory Authority, and the domain of the website of the International Registry as identified by the Supervisory Authority

in writing shall belong to the Supervisory Authority. The contents of this Section 17.3 shall be prominently displayed by the International Registry on its website.

- 17.4 Section 17.3 shall apply analogously to any other business or social media or applications used by the International Registry for effecting and searching registrations under the Convention and the Protocol.

Section 18 NOTIFICATIONS

The Registrar may notify an accountholder, by email to the current email address provided for the accountholder's administrator, of any matters affecting the International Registry. Any such notification shall be presumed to have been received 24 hours after it was sent.

Section 19 AMENDMENTS

- 19.1 Requests for amendments to these Regulations or the Procedures may be submitted by the Registrar to the Supervisory Authority, which shall consider such proposed amendments.
- 19.2 The authentic version of any amendments to these Regulations or the Procedures approved by the Supervisory Authority shall be published in an official publication of the Supervisory Authority.
- 19.3 The validity and priority of, and other rights and interests appurtenant to, a registration made in conformity with the Regulations and the Procedures as in effect at the time of such registration, and taking into account the functional capabilities of the International Registry at such time, shall not be affected by any subsequent change to such Regulations, Procedures or capabilities of the International Registry, and the provision of a facility that allows the parties to a registration to amend or otherwise modify a registration in order to conform to such changes shall not be construed as implying any obligation to effect any such amendment or modification.
- 19.4 The validity of any action taken by the Registrar in conformity with the Regulations and the Procedures as in effect at the time of such action, shall not be affected by any subsequent change to such Regulations or Procedures.

Section 20 EFFECTIVE DATES

The present Regulations and the initial Procedures shall take effect on the date the Protocol enters into force. Any amendments to these Regulations or the Procedures shall take effect one calendar month after the date of their publication unless otherwise determined by the Supervisory Authority.

ANNEXE II

**REGULATIONS WORKING GROUP
SUMMARY REPORT OF THE FIFTH SESSION
(REMOTE, 19 FEBRUARY 2024)**



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

EN

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

UNIDROIT 2024
MACPC/Regulations/W.G./5/Doc. 1
Original: English only
March 2024

***Regulations Working Group
Fifth session (remote)
19 February 2024***

SUMMARY REPORT

OF THE FIFTH SESSION

(Videoconference, 19 February 2024)

1. The fifth 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 19 February 2024. The session was attended by six participants from four Member States and the Secretariat (the List of Participants is available in Annex I).

Opening of the session

2. *The Chair* welcomed the participants to the fifth session of the MAC Regulations Working Group.

Recent updates

3. *The Secretariat* summarised recent activities related to the implementation of the MAC Protocol, highlighting developments in relation to (i) the appointment of the Supervisory Authority, and (ii) the ongoing negotiation of the registry contract with the preferred bidder.

4. *The Chair* explained that the purpose of this fifth Regulations Working Group session was to work on the Draft Baseline Regulations (MACPC/Regulation/W.G./4/Doc.3) approved by the MAC Preparatory Commission at its third session in June 2021, in order to submit an improved version to the MAC Preparatory Commission at its upcoming sixth session in April 2024. It was further noted that the updated version submitted to the Preparatory Commission was likely to become the Baseline Regulations upon which the MAC Registry would be developed.

Consideration of the draft Regulations

5. *The Chair* drew the attention of the Working Group to the Draft Regulations, and identified several matters that had arisen during the MAC Registry Contract negotiations which required further consideration.

(i) Languages

6. *The Chair* explained that the Draft Regulations did not include a section specifying the language requirements for the future international registry.

7. It was noted that the language of the registration information would affect the legality of the registration, which had been touched upon in Draft Regulations Section 5 "Information Required to Effective Registration". Section 5.1(b)(i) stipulated that the ISO-compliant number or alphanumeric serial number assigned by the manufacturer was the primary criterion to identify an object. It was noted that ISO standard numbers with 17-digit unique codes were enough to identify the item in the Registry, and used only Arabic numerals and the Latin alphabet. However, when an ISO standard number was not used, the manufacturer's serial number might not only be in Arabic numerals and the Latin alphabet. *The Chair* queried whether the Regulations should be amended to clarify that the Registry would only accept serial numbers using Arabic numerals and the Latin alphabet. *No decision was reached in this regard.*

8. It was further noted that Section 5.1(b)(ii)(C) stipulated that, in the absence of an ISO-compliant number, the identification criteria for an object was, *inter alia*, "descriptive information about the equipment." However, the Regulations did not provide whether there were any limitations on which languages such information could be provided.

9. The Working Group decided that the matter required further consideration, and deferred consideration until the next session.

(ii) Entry Points

10. *The Chair* queried whether the distinction between “authorising entry point” and “direct entry point” should be retained in the Regulations.

11. It was noted that authorising entry points required parties to request authorisation numbers from States. It was further noted that for the Aircraft Registry, no direct entry point had ever been successfully established and only authorising entry points had been implemented.

12. The Chair explained that the preferred bidder had security concerns regarding whether a direct entry point would allow Contracting States to directly access the Registry database and directly change the database. *The Working Group agreed that Entry Points should not allow direct access to the database, rather, it would provide for the direct transmission of registration information only.*

13. Some participants further raised the discussion about the legal framework to be established for the entry point, emphasizing the importance of clarifying that registrations could be valid even if there had been a non-compliance with domestic law.

14. The Working Group also noted that the MAC Protocol explicitly provided that, in the case of non-compliance with domestic rules requiring the use of an entry point, the registration in the International Registry would remain valid, and that the only legal effect would be potential regulatory punishments under the applicable domestic law.

15. It was recognised that the parties utilising the MAC Registry were likely to be less sophisticated compared with the parties utilising the Aircraft Registry. Moreover, the parties using the MAC Registry were likely to be more familiar with domestic registries in their national language (where domestic personal property securities registries already existed). As such, the Working Group agreed that it was important for the Regulations to facilitate entry points that would allow domestic secured transaction registries to transmit information to the MAC Registry.

(iii) Consent to Authorisation

16. *The Chair* introduced the issue, noting that the consent to authorisation for non-accountholders remained unresolved from the last session and required further discussion.

17. Under Section 7 (Consent) of the Regulations, registration could only be made with the debtor’s consent, which was of great importance to the proper functioning of the Registry. Thus, further consideration was needed to be given to the consent mechanism. It was noted that the Procedures would set out the specific processes by which debtors without an account could provide consent.

18. Several participants again noted the differences between the likely users of the Aircraft Registry and MAC Registry, given the different target markets of the two registries. It was suggested that the formalised process for consent to authorisation in the Aircraft Registry was necessary in the context of large-scale acquisition of new aircraft by airlines, whereas it would be an excessive burden for farmers in developing countries needing to consent to the registration of an interest in a tractor in the MAC Registry.

19. It was acknowledged that creating a process sufficiently robust to ensure debtor consent, whilst at the same time not being overly formal with excessive obligations imposed, was a challenge.

20. *The Chair* noted that it had previously been discussed whether the Procedures could provide for a mechanism through which debtor consent could be given via text message. However, further requirements would have to be established in the Procedures to guarantee the authenticity of the text message.

(iv) Registry Procedures

21. With regard to the approval and amendment process for the Procedures, *the Chair* highlighted that Section 16.1 stipulated that the Supervisory Authority would establish the initial Procedures. The Chair queried the extent to which the Registrar should be able to make amendments to the Procedures, and whether the Supervisory Authority should control their content.

22. *The Secretariat* noted that the Rail Registry Regulations could be provided as a reference, since it also touched upon the issue regarding the approval of changes to the Procedures.

23. The Working Group agreed that the approval and amendment process of the Procedures should be formal, with some flexibility given to the registrar under Section 19.1¹, but subject to the Supervisory Authority's final veto. As for minor technical adjustments, quicker procedures with sufficient discretion could apply (e.g., by establishing a tacit approval mechanism where no objection was raised by the Supervisory Authority within a specified notice period). The Working Group agreed to further discuss the matter.

(v) Amendments to the Regulations

24. *The Chair* noted that there were ongoing discussions regarding how the MAC Registry Contract should treat changes to the Regulations that could have a material adverse effect on the Registrar. It was explained that various approaches were under consideration and that further information would be provided in due course.

Timetable and planning of further work

25. It was agreed that an updated version of the Regulations would be circulated in advance of the next Working Group Meeting on 8 March 2024.

26. It was noted that the Regulations produced after the Working Group's sixth session would be submitted to the MAC Preparatory Commission at its sixth session in April 2024.

Any other business

27. It was noted that the preferred bidder asked for participation in future MAC Regulations Working Group meetings. Some participants noted that it was premature to invite the preferred bidder to the next meeting on 8 March. The Working Group agreed that the preferred bidder should be invited to provide comments on the draft Regulations in the near future, but it was unnecessary to invite them to Regulations Working Group meetings for the moment.

¹ 19.1 "Requests for amendments to these Regulations or the Procedures may be submitted by the Registrar to the Supervisory Authority, which shall consider such proposed amendments."

Closing of the Session

28. *The Chair* thanked all the participants for their attendance and positive contributions to the discussion. *The Chair* closed the Fifth session of the Regulations Working Group.

ANNEX I**LIST OF PARTICIPANTS****MEMBER STATES**

AUSTRALIA	Bruce WHITTAKER (Chair) Senior Fellow University of Melbourne
IRELAND	Feidhlim LENEHAN International Financial Services Division Department of Finance Ireland
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND	Mark Winton SMITH Deputy Director, Corporate and Insolvency Department of Business and Trade Legal Advisers
UNITED STATES OF AMERICA	Padraic SWEENEY Machinery Team Supervisor Industry and Analysis International Trade Administration U.S. Department of Commerce

SECRETARIAT

UNIDROIT	Anna VENEZIANO Deputy Secretary-General
	William BRYDIE-WATSON Senior Legal Officer
	Jiaxuan (Catherine) SUN Legal Intern

ANNEXE III

**REGULATIONS WORKING GROUP
SUMMARY REPORT OF THE SIXTH SESSION
(REMOTE, 19 MARCH 2024)**



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

EN

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

UNIDROIT 2024
MACPC/Regulations/W.G./6/Doc. 1
Original: English only
March 2024

***Regulations Working Group
Sixth session (remote)
19 March 2024***

**SUMMARY REPORT
OF THE SIXTH SESSION
(Videoconference, 19 March 2024)**

1. The sixth 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 19 March 2024. The session was attended by 13 participants from six Member States, one international organisation, and the Secretariat (the List of Participants is available in Annex I).

Opening of the session

2. *The Chair* welcomed the participants to the sixth session of the MAC Regulations Working Group.

Consideration of the draft Regulations

3. *The Chair* summarised recent updates, highlighting that the negotiation of the Registry contract with the preferred bidder was ongoing and near finalisation. It was explained that given the MAC Protocol was several years away from entering into force, the role of the Regulations Working Group at this stage was not to fine-tune the draft Regulations into a final form ready for enactment. Rather, the role of the Regulations Working Group was to resolve any major outstanding issues in the Regulations, before they were adopted by the Preparatory Commission and became the Baseline Regulations under the MAC Registry Contract.

4. *The Chair* drew the attention of the Working Group to the updated Draft Regulations circulated after the fifth session, and suggested discussing the matters raised by the preferred bidder to ensure alignment between the Regulations and the MAC Registry Contract.

(i) Registration and Search Criteria

5. *The Chair* introduced the issue, noting that it was more of a drafting matter than a substantial change. It was explained that the preferred bidder had noted a misalignment between Section 8.1 and Section 5.1, as Section 8.1 stipulated that searches shall be made using only the serial number, whereas Section 5.1(b) stated that a serial number was only to be used in a registration if the object that was the subject of the registration did not have an ISO-compliant number.

6. *The Chair* noted that Section 5.1(b) was simply attempting to reproduce in a more detailed fashion the requirement of the MAC Protocol itself, by identifying equipment using its manufacturer's serial number. *The Chair* suggested to clarify this provision by slightly amending Section 5.1(b)(i) to provide "(A) the ISO-compliant serial number that is assigned to the object by the manufacturer, if it has one; and (B) if the object does not have an ISO-compliant serial number, the non-ISO-compliant alphanumeric serial number that is assigned to the object by the manufacturer". *The Working Group agreed to the proposed change.*

7. *The Chair* also queried whether "ISO-compliant" was a universally understood concept, or whether it needed to be defined. He further queried whether there could be more than one ISO standard for a single object, depending upon the nature of the equipment. Several participants suggested that the matter could be discussed with the ISO technical committee, and the entities with responsibility for the relevant standards (including the Association of Equipment Manufacturers), but did not need to be resolved at this stage.

8. The Working Group also agreed to further formatting and non-substantial changes to Section 5.1, including rearranging the order of the subparagraphs under rearranged, the moving of the last line of Section 5.1 "[the electronic signature of the registering person]" above the current paragraph (a), and adjusting the corresponding references.

(ii) Registrable Non-Consensual Rights and Interests (R-NRCIs) and the Pre-Existing Rights and Interests

9. *The Chair* introduced the issue raised by the preferred bidder, and explained that they had suggested that the Regulations may wish to allow the Registrar to undertake a preliminary review of RNCIs and Pre-Existing Rights and Interests (PRI), on the basis that such an approach had been adopted under the Rail Regulations to mitigate the risk of fraudulent registrations. Under the Rail Registry Regulations, the Registrar was required to review all R-NCRI and PRI submissions, which must include documentary evidence establishing the R-NCRI or PRI. It was highlighted that this approach required the registrant to provide *prima facie* evidence of an R-NCRI or PRI. *The Secretariat* indicated that due to additional level of due diligence required by the Registry, it was possible that this approach would require higher registration fees for R-NCRIs and PRIs.

10. Some participants raised concerns about the proposed mechanism, and noted that further information would be required on how it would operate, and what the Registry would take into account in reviewing R-NCRIs and PRIs. Other participants queried whether such an approach could also include possible penalties against registrants making false registrations, to prevent them from doing so repeatedly.

11. *The Chair* appreciated all the constructive suggestions and concluded that the Working Group would inform the preferred bidder that there had been no final decision on this point. The Working Group decided to defer the issue for future consideration, after the Baseline Regulations had been adopted.

(iii) Assignment of unregistered interests

12. *The Chair* explained that the preferred bidder had expressed the concern that registrations under Sections 5.4, 5.6 and 5.7 would not be searchable, because they did not require the registration of a serial number. The Working Group agreed that the relevant sections still required the serial number of the object for registration, so no changes were required to the draft Regulations.

(iv) Discretionary decisions of the Registrar

13. *The Chair* explained that the Rail Registry Regulations provided for more Registrar discretion than the Aircraft Registry Regulations, and that the functions of the Registrar could not be disrupted by a challenge of the Registrar's discretion. It was noted that the preferred bidder would like to have more discretion under the MAC Regulations. The Working Group noted the issue for future discussion, and decided that there was no need to change the Baseline Regulations at this stage.

(v) Use of Registry Information

14. *The Chair* explained that the preferred bidder had indicated that Section 3.8 as currently drafted could inadvertently prevent the Registrar from offering ancillary services. The Working Group agreed to add "*other than as approved by the Supervisory Authority*" to the end of Section 3.8, to ensure that approved Ancillary Services would not be otherwise prohibited by this provision.

(vi) Languages

15. *The Chair* explained that the preferred bidder had suggested that the Regulations should provide that the Registry would only operate in English and any registration and search criterion would require be limited to the use of the Latin alphabet and Arabic numerals.

16. The Working Group reaffirmed that the primary registration criterion would be an ISO-compliant serial number, using Latin alphabet and Arabic numerals. In relation to the languages in which secondary registration criteria could be submitted, no decision was made.

17. In relation to the languages in which the Registry would be accessible, it was suggested that it would be important for the Registry front-end to be available in languages other than English, although it was not currently possible to determine which languages should be prioritised from entry into force.

18. The Working Group decided that the issue of languages should not be addressed in the Baseline Regulations and would be better addressed in the MAC Registry Contract.

(vi) Other comments

19. The Chair thanked International Law Institute expert observer Dr Marek Dubovec for submitting comments on the draft Regulations, and noted that they would be taken into account during the final update of the draft.

Timetable and planning of further work

20. *The Secretariat* noted that an updated version of the draft Regulations would be circulated to the Working Group for final comment, before they were submitted to the Preparatory Commission for consideration at its sixth session. The Secretariat further explained that the preferred bidder would also be provided with the updated version of the draft regulations for final comment.

Any other business

21. No other business was raised.

Closing of the Session

22. *The Chair* thanked all the participants for their attendance and positive contributions to the discussion. *The Chair* closed the sixth session of the Regulations Working Group.

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

AUSTRALIA	Mr Bruce WHITTAKER Senior Fellow University of Melbourne
GERMANY	Mr Ole BÖGER Judge Hanseatic Court of Appeal in Bremen
IRELAND	Mr Feidhlim LENEHAN International Financial Services Division Department of Finance Ireland
SPAIN	Ms Teresa Rodríguez de las Heras Ballell Associate Professor in Commercial Law Departamento de Derecho Privado Universidad Carlos III de Madrid
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND	Reverend Mark Winton SMITH Deputy Director Corporate, Insolvency and Easter UK Government Legal Department
UNITED STATES OF AMERICA	Mr Padraic SWEENEY Machinery Team Supervisor Industry and Analysis International Trade Administration U.S. Department of Commerce Mr Henry GABRIEL JR. Professor of Law Elon University School of Law Ms Ifeanyichukwu EGBUNIWE Senior Counsel Trade Finance, Insurance and Small Business United States Export-Import Bank

INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS

INTERNATIONAL LAW INSTITUTE	Dr Marek DUBOVEC Director of Law Reform Programs
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CO-CHAIR OF THE MAC DIPLOMATIC
CONFERENCE DRAFTING COMMITTEE

Mr Jean-François RIFFARD
Professor of Private Law and Criminal Sciences
CLERMONT FERRAND UNIVERSITY

SECRETARIAT

INTERNATIONAL INSTITUTE FOR THE
UNIFICATION OF PRIVATE LAW

Ms Anna VENEZIANO
Deputy Secretary-General

Mr William BRYDIE-WATSON
Senior Legal Officer

Ms Jiaxuan SUN
Legal Intern

ANNEX II

ORDER OF BUSINESS

1. Opening of the session
2. Consideration of issues associated with draft Regulations
3. Timetable and planning of further work
4. Any other business
5. Closing of the session