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**COMMISSION PRÉPARATOIRE POUR
L'ÉTABLISSEMENT DU REGISTRE INTERNATIONAL DES
ÉQUIPEMENTS MAC CONFORMÉMENT AU PROTOCOLE
MAC**

UNIDROIT 2024
MACPC/6/Doc. 6
Original: anglais
Mars 2024

Sixième session (hybride)
11 – 12 avril 2024

GROUPE DE TRAVAIL SUR LA RATIFICATION ET ACTUALISATION DE LA MISE EN ŒUVRE

A. Introduction

1. Le présent document a pour objet de fournir à la Commission préparatoire des informations complémentaires sur la promotion, la mise en œuvre et la ratification du Protocole MAC et de rendre compte du fonctionnement du Groupe de travail sur la ratification (GTR).
2. En mars 2024, cinq États (la République du Congo, les États-Unis d'Amérique, la République de Gambie, la République fédérale du Nigeria et la République du Paraguay) et une Organisation régionale d'intégration économique (l'Union européenne) avaient signé le Protocole MAC, bien qu'il n'ait encore été ratifié par aucun État.

B. Historique

3. L'article XXV(1)(a) du Protocole MAC dispose que cinq États doivent ratifier le Protocole MAC avant qu'il puisse entrer en vigueur.
4. Lors de sa cinquième session en novembre 2022, la Commission préparatoire a décidé de créer un Groupe de travail sur la ratification du Protocole MAC (GTR) pour soutenir la promotion, la mise en œuvre et la ratification du Protocole MAC.

C. Actualisation de la ratification

5. Le Protocole MAC est à l'étude dans plusieurs États du monde. Dans de nombreux États, à la suite de récentes réunions gouvernementales avec le Secrétariat d'UNIDROIT, l'examen en est à un stade préliminaire (Brésil, Chine, Inde et Japon). Dans d'autres États, le traité fait l'objet d'un examen de longue haleine et progresse vers l'approbation du Gouvernement et l'élaboration d'une législation d'application (Kenya et Maurice).
6. Un État est sur le point de ratifier: la République du Paraguay. En août 2023, le Président et le ministre des Affaires étrangères du Paraguay ont recommandé au Parlement paraguayen d'approuver les Protocoles MAC, ferroviaire et spatial à la Convention du Cap (le Paraguay est déjà un État contractant de la Convention du Cap et du Protocole aéronautique). En décembre 2023, le Sénat paraguayen a approuvé la ratification des trois Protocoles. En mars 2024, la Chambre des

Députés du Paraguay a approuvé la ratification des trois Protocoles. Il est prévu que, dans les semaines à venir, le Président paraguayen promulgue officiellement les trois traités et dépose les instruments de ratification auprès du Secrétariat d'UNIDROIT, ce qui fera du Paraguay le premier État contractant du Protocole MAC.

7. Grâce aux activités du GTR et du Groupe de travail MAC, les activités de promotion et de mise en œuvre augmenteront considérablement en 2024 et 2025. La nomination d'un Conservateur chargé de la création et du fonctionnement du Registre MAC et la mise au point d'un prototype de registre devraient également encourager les États à donner la priorité à leurs activités de ratification.

D. Le Groupe de travail sur la ratification

8. Suite à la décision de la Commission préparatoire de créer le GTR en 2022, l'instance a été créée en 2023. Le GTR est un groupe informel de parties prenantes intéressées qui se réunira régulièrement pour coordonner la stratégie et les initiatives de promotion et de mise en œuvre du Protocole MAC. Le GTR est composé i) d'États membres qui apportent leur soutien, ii) d'organisations intergouvernementales et non gouvernementales internationales qui apportent leur soutien, iii) du Groupe de travail MAC (représentant les parties prenantes du secteur privé), iv) du Conservateur du Registre international pour les matériels d'équipements MAC (une fois nommé), v) de l'Autorité de surveillance (une fois nommée) et vi) du Secrétariat d'UNIDROIT. La participation au GTR se fait sur une base volontaire et ne comporte aucune obligation financière pour les membres.

9. Le GTR est actuellement composé de trois États, d'une organisation internationale, de représentants du secteur privé et du Secrétariat d'UNIDROIT¹. Le Conservateur devrait également se joindre au GTR, une fois nommé.

10. Le GTR a tenu sa première session le 5 octobre 2023 et sa deuxième session le 19 décembre 2023. Les Rapports de synthèse des deux premières sessions figurent respectivement aux Annexes I et II (en anglais) du présent document. Au cours de ses deux premières sessions, le GTR a fait progresser les initiatives suivantes:

- a) mise en place d'une plateforme numérique permettant à tous les membres du GTR de télécharger et d'accéder aux documents pertinents (terminé).
- b) création d'un tableau de suivi de l'état d'avancement de la mise en œuvre du Protocole MAC dans différents pays (terminé).
- c) adoption du Protocole MAC en tant que priorité politique par les forums internationaux et régionaux compétents (en cours):
 - i. organisations internationales
 - Organisation de coopération et de développement économiques (OCDE)
 - ii. institutions financières internationales:
 - Banque asiatique de développement (BAD)
 - Banque asiatique d'investissement et d'infrastructure (AAIB)
 - Banque européenne pour la reconstruction et le développement (BERD)
 - Groupe de la Banque mondiale (GBM)

¹ Le GTR est actuellement composé de l'Allemagne, des États-Unis d'Amérique, du Royaume-Uni, du Groupe de travail MAC, de l'Institut de droit international et du Secrétariat d'UNIDROIT. L'Australie et le Japon envisagent également de rejoindre le GTR.

- iii. organismes régionaux:
 - Coopération économique Asie-Pacifique (APEC)
 - Communauté de l'Afrique de l'Est (CAE)
 - Union européenne (UE)
- d) organisation d'événements futurs pour promouvoir et mettre en œuvre le Protocole MAC:
 - i. séance d'information virtuelle à l'intention des Ambassades des États-Unis dans certains États africains qui ont déjà ratifié la Convention du Cap (sous le direction du Groupe de travail MAC) (2024)
 - ii. organisation d'un événement sur le Protocole MAC autour de la Conférence académique annuelle du Cap à Cambridge (septembre 2024)
 - iii. organisation d'un atelier de l'APEC sur le financement de l'agriculture et le Protocole MAC au Japon (2025)
- e) élaboration d'une liste de cinq à dix États prioritaires auxquels les membres du GTR peuvent apporter un soutien à la ratification en 2024 et 2025 (en cours).
- f) préparation d'une nouvelle évaluation des avantages du Protocole MAC, afin de mettre à jour l'évaluation économique de 2018 (en cours).

11. Le GTR continuera de se réunir virtuellement sur une base trimestrielle pour faire progresser les initiatives énumérées ci-dessus. Tous les États membres de la Commission préparatoire ou les organisations observatrices qui souhaitent participer plus activement à la promotion, à la ratification et à la mise en œuvre du Protocole MAC sont encouragés à adhérer au GTR.

E. Autres activités de mise en œuvre

12. Depuis la cinquième session de la Commission préparatoire, le Secrétariat d'UNIDROIT a discuté de la promotion et de la mise en œuvre du Protocole MAC avec des responsables gouvernementaux d'environ 20 États, dont l'Australie, le Brésil, la Chine, les États-Unis d'Amérique, la Géorgie, l'Inde, le Japon, le Kenya, le Luxembourg, Maurice, la Mongolie, le Mozambique, la Papouasie-Nouvelle-Guinée, le Paraguay, le Royaume-Uni et le Viet Nam.

13. En ce qui concerne les présentations et les événements, en 2023 et au début de 2024, UNIDROIT a pris les initiatives suivantes pour promouvoir et mettre en œuvre le Protocole MAC:

- a) présentation à distance à l'Assemblée Générale du Comité européen des équipements de construction (CECE) lors de son Congrès 2023 sur les avantages du Protocole MAC pour l'industrie manufacturière et sur la manière dont le secteur industriel peut soutenir la mise en œuvre du Protocole MAC à la fois en Europe et dans le monde (Chamonix, janvier 2023).
- b) Présentation à l'intention d'experts juridiques géorgiens sur le fonctionnement et les avantages juridiques de la Convention du Cap et de ses Protocoles (Rome, mai 2023).
- c) Présentation à des experts juridiques africains dans le cadre du Programme international d'UNIDROIT pour le droit et le développement sur la manière dont le Protocole MAC pourrait apporter des avantages juridiques et économiques aux États africains (Rome, juillet 2023).
- d) Atelier pour le Gouvernement indien sur les avantages juridiques et économiques du Protocole MAC (New Delhi, juillet 2023).
- e) Présentation à distance lors du Dialogue politique du Comité économique de l'APEC sur les avantages de la mise en œuvre du Protocole MAC dans la région Asie-Pacifique (Seattle, août 2023).

- f) Présentation au Groupe de transition juridique de la BERD sur la manière dont la Convention du Cap et le Protocole MAC pourraient soutenir les travaux de la Banque européenne pour la reconstruction et le développement (BERD) (Londres, septembre 2023).
- g) Présentation sur la manière dont le Protocole MAC soutiendra la mécanisation et le développement économique lors de la Conférence de l'Organisation des Nations Unies pour l'alimentation et l'agriculture sur la mécanisation (Rome, septembre 2023).
- h) Présentation des avantages juridiques et économiques du Protocole MAC lors d'un atelier de l'APEC sur la réforme des opérations garanties (Tokyo, octobre 2023).
- i) Présentation à distance du Protocole MAC au Comité Stratégique de l'Industrie Européenne du Machinisme Agricole (CEMA). La présentation s'est concentrée sur la manière dont le Protocole MAC faciliterait de nouvelles opportunités d'exportation pour les fabricants européens de matériels d'équipement agricoles et soutiendrait plusieurs priorités politiques du CEMA (Bruxelles, octobre 2023).
- j) Présentation de la manière dont le Protocole MAC aidera la Banque asiatique d'infrastructure et d'investissement (AAIB) à réaliser son programme *Infrastructure for Tomorrow* (i4t) et ses quatre priorités thématiques que sont les infrastructures vertes, la connectivité et la coopération régionale, les infrastructures technologiques et la mobilisation de capitaux privés (Beijing, décembre 2023).
- k) Présentation à l'*Equipment Leasing and Financing Association* (Association pour la location et le financement d'équipements - ELFA) sur les avantages du Protocole MAC pour l'industrie du financement d'équipements (Washington DC, janvier 2024).
- l) Présentation au Groupe de la Banque mondiale sur la manière dont le Protocole MAC compléterait les réformes juridiques entreprises par le Groupe de la Banque mondiale pour faciliter l'investissement du secteur privé et développer les marchés financiers à l'échelle mondiale (Washington DC, janvier 2024).

F. Décision

14. *La Commission préparatoire est invitée à prendre note des Rapports et des travaux entrepris par le Groupe de travail sur la ratification. La Commission préparatoire est invitée à prendre note des autres activités entreprises à l'appui de la promotion, de la mise en œuvre et de la ratification du Protocole MAC.*

ANNEXE I

SUMMARY REPORT

MAC Protocol Ratification Task Force

First session

(Remote, 5 October 2023)



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

EN

**MAC Protocol
Ratification Task Force
First session (remote)
5 October 2023**

UNIDROIT 2023
MACRTF/1/Doc. 2
English only
December 2023

SUMMARY REPORT

MAC Protocol Ratification Task Force

First session

(Remote, 5 October 2023)

1. The MAC Protocol Ratification Task Force (RTF) was established by the MAC Preparatory Commission at its fifth session in November 2022. The RTF is an informal group of interested stakeholders that meets on a regular basis to coordinate strategy and initiatives to promote and implement the MAC Protocol.

2. The first session of the RTF took place on 5 October 2023. The session was held remotely and was attended by 21 participants (the full list of participants is provided in Annexe II).

Item No. 1 Opening of the session and welcome by the UNIDROIT Secretary-General

3. In his capacity as the chair of the MAC RTF, *the UNIDROIT Secretary-General* welcomed participants to the first session. He noted that the current session was and subsequent sessions would be informal meetings between friendly parties with a joint purpose to promote the ratification of the MAC Protocol around the world, in order to achieve the earliest possible entry into force.

4. RTF participants briefly introduced themselves.

Item No. 2 Adoption of the draft agenda

5. The RTF adopted the draft agenda (provided in Annexe I).

Item No. 3 Composition of the Ratification Task Force

6. *The UNIDROIT Secretary-General* noted that the parties eligible to become members of the RTF had been determined by the MAC Preparatory Commission (**Preparatory Commission**) at its fifth session:

- 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

7. *The RTF* discussed whether it would be permissible to allow the presumptive Registrar to participate in future RTF sessions before it had been formally appointed as Registrar by the Preparatory Commission. It was noted that the presumptive Registrar could bring useful information as to substance and process. *The Chair of the MAC Preparatory Commission* suggested that any invitation extended to the presumptive Registrar to participate in the RTF should strictly be on a provisional basis, depending on the outcome of the registry contract negotiations. *The RTF agreed that the presumptive Registrar should be invited to participate in future RTF sessions, once registry contract negotiations had progressed further.*

8. *The Ratification Task Force agreed that Japan, Australia and Spain should be extended invitations to join the MAC RTF, on the basis that all three countries had been deeply involved in the negotiation of the treaty, had expressed strong support for its promotion and would benefit from its global adoption.*

9. *The Secretary-General* noted that during a recent visit to Brazil in June 2023, the Ministry of Development and the Association of Small Farmers had expressed an interest in promoting the MAC Protocol. However, they required further support from the private sector.

10. The RTF members generally agreed that African participation in the RTF would be useful. It was suggested that the two best candidates would be Kenya and South Africa, noting that both countries would be large beneficiaries of the MAC Protocol and were also high priority States in which to promote ratification. *The Secretary-General* suggested that it would be best to attain African participation from South Africa, Nigeria or Kenya as those countries had the strongest influence in the African region.

11. *The MAC Working Group* agreed that it would be useful to encourage African States to join the RTF, but gently urged caution in including countries that had been identified as high priority ratification target countries as RTF members, as such a decision might subsequently become problematic.

Item No. 4 Objectives, strategy and proposed activities of the Ratification Task Force

12. *The UNIDROIT Secretariat* outlined the RTF's proposed objectives, as discussed by the Preparatory Commission at its fifth session:

- 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; and
- d. to organise events and to develop, promote and implement documents.

13. *The UNIDROIT Secretariat* proposed the creation and circulation of a shared Excel implementation tracker into which RTF members could provide input. *The MAC Working Group* agreed that the tracker would be useful and recommended also including a tab for upcoming interactions. *The RTF agreed to create and use a shared implementation tracker to efficiently coordinate the promotion of the MAC Protocol.*

14. *The UNIDROIT Secretariat* highlighted that messages promoting the MAC Protocol should be tailored to different audiences (eg. trade benefits, economic benefits, access to credit benefits, and sustainability and development benefits).

15. *The International Law Institute* recommended that the RTF should provide concrete examples of the MAC Protocol's sustainability and development benefits. *The United States* noted that AEM and other companies had produced a range of reports and documents outlining the environmental benefits of MAC equipment, some of which related specifically to the Sustainable Development Goals.

16. *The MACPC Chair* noted that one of the potential benefits of the MAC Protocol was that newer, more sustainable equipment would be available. *The United Kingdom* agreed, however it noted that some of the environmental benefits of using new equipment might be offset by the continued use of older equipment enabled by effects that the MAC Protocol would have on the second-hand equipment market. *The MAC Working Group* agreed that while it was anticipated that the MAC Protocol would create a secondary market, any older equipment that could not be resold or refinanced would often be recycled, because of the high material value of the equipment components. It was further explained that as the MAC Protocol facilitated the export of new equipment (with significant productivity and emissions advantages), the older equipment would be relegated to intermittent use at a more affordable cost.

Identification of priority States for MAC Protocol ratification

17. *The UNIDROIT Secretariat* suggested that the RTF should collectively try to identify the countries most likely to ratify the MAC Protocol in the next 24 months, noting the Registry was expected to be ready by 2025. UNIDROIT noted that it had been working with several regional bodies to promote the MAC Protocol, including the European Commission (EU), United Nations Economic Commission for Africa (UNECA) and the African Union.

18. It was noted that no regional bodies in Latin America had yet been engaged in promoting the implementation of the MAC Protocol.

19. *The United States* queried whether any further engagement had been made with the Republic of Congo, the Gambia, Paraguay and Nigeria (the 4 signatories at the Diplomatic Conference). *The UNIDROIT Secretariat* responded that (i) Paraguay had commenced the parliamentary ratification process, (ii) Nigeria had expressed continued interest in the MAC Protocol but that UNIDROIT had not undertaken any recent bilateral discussions with them, (iii) the Republic of Congo remained engaged in their capacity a member of the Preparatory Commission, but had not made any concrete process, and (iv) the Gambia had not been progressed, partially as a result of the difficulty of engaging with the Gambia (which was not a UNIDROIT Member State, nor actively participated in the MACPC).

20. *The MAC Working Group* noted that as five ratifications were necessary for entry into force, there was value in promoting the MAC Protocol in smaller countries that might be able to ratify the treaty relatively quickly. *The UNIDROIT Secretariat* agreed that smaller countries were best positioned to ratify quickly, and further explained that the Protocol would need to be ratified by at least one large country with a high number of parties that would become users of the Registry, such as Brazil, India or Indonesia.

21. In relation to ratification progress in Europe, *the UNIDROIT Secretariat* explained that the MAC Protocol was not a priority for the EU and that EU Member States would need to encourage the European Commission to prioritise the implementation and ratification of the MAC Protocol. It was suggested that Spain would be unlikely to push for ratification within the next 24 months, but support from Germany and Italy could be decisive. *Germany* suggested that it might be worth speaking with the incoming Belgian Presidency.

22. *The MAC Working Group* noted that Argentina could be a suitable country to engage with, depending on the outcome of the upcoming election.

23. The Ratification Task Force noted that while it was easier to promote the MAC Protocol in States that had already ratified the Convention and Aircraft Protocol, it did not provide a significant advantage as different parts of Government would be responsible for the different Protocols.

24. *The Secretariat* explained that it did not have individual country data regarding the extent to which the Aircraft Protocol had lowered finance costs in Contracting States. *The United Kingdom* noted that it was in the process of conducting a post implementation review of the Aircraft Protocol, but that a detailed analysis was not currently available. *The Working Group* suggested that, as a long-term initiative, the compilation of such data would be of great value in promoting the MAC Protocol. The RTF noted that academia might be able to assist with this matter.

25. *The RTF* agreed that it would be beneficial to prepare an updated global MAC Protocol economic impact assessment, noting that the existing version was published in 2017 and was not updated. *The RTF* further agreed that more targeted national or regional assessments should also be developed.

Item No. 5 Promotion and ratification update

26. Under the leadership of AEM, *the MAC Working Group* summarised its recent activities. It was explained that as of October 2023, the MAC Working Group consisted of AEM, CNH, Terrex, AgCo, Cummins, Vermeer, Allen Engineering and ADM Asphalt Plants. AEM was negotiating a memorandum of understanding (MOU) with the Committee for European Construction Equipment (CECE), the Equipment Leasing and Finance Association (ELFA) and the Argentine Chamber of Agricultural Machinery to expand the Working Group, and had been engaging with the India Equipment Constructors Manufacturers Association and a Turkish Association for equipment manufacturing. The Working Group further explained that engagement with private sector financial institutions was increasingly important, going forward.

27. In relation to promotion activities, *the Working Group* noted that during the APEC Economic Committee meetings in Seattle in August 2023, AEM held a 90-minute session dedicated to promoting the MAC Protocol. It was further explained that *the Working Group* would attend the upcoming IMF World Bank annual meetings with the aim of increasing engagement on the MAC Protocol. Looking forward, it was noted that the *Working Group* would promote the MAC Protocol Asian Development Bank annual meeting in Georgia (May 2024), and at the African Development Bank Annual Meeting in Kenya. *The Working Group* highlighted the importance of engaging with the African Development Bank (AFDB), noting they could become natural advocates for successful ratification of the MAC Protocol within their member countries across the continent. It was noted that the Working Group was aiming to arrange a meeting with the President of the AFDB through its Vermeer connections.

28. The UNIDROIT *Secretariat* provided an update on its promotional activities. UNIDROIT explained that it had engaged with regional bodies, international financial institutions, international organisations and individual countries. Although sometimes reactive, the overwhelming majority of UNIDROIT's engagement has been strategic.

29. It was noted that UNIDROIT had been engaging with APEC for 8 years and would continue to do so in the future, as APEC provided a significant opportunity to promote the MAC Protocol to over twenty States in the Asia Pacific region. It was further noted that the US was developing a concept note for APEC regarding the implementation of the MAC Protocol. *The United States* explained that the project would be broader than just the MAC Protocol, although the MAC Protocol would be a centrepiece of the project note. The RTF noted that the APEC concept note was due in Spring 2024.

30. *The United States* noted that the US Department of Commerce was working with AEM and banks in order to further expand the coalition of stakeholders promoting the MAC Protocol. He also noted that the organisation Prosper Africa (a commercial development, trade and assistance investment organisation in the USA) had expressed a keen interest in the MAC Protocol.

31. *The UNIDROIT Secretariat* noted that UNIDROIT regularly engaged with the World Bank, the European Bank for Registration Development (EBRD), the Asian Development Bank (ADB) and the Asian Infrastructure and Investment Bank on its access to credit instruments, including the MAC Protocol. The UNIDROIT Secretariat further noted that the largest UN-based agricultural organisations were located in Rome and that the RTF should use the food security angle to promote the MAC Protocol to organisations like the Food and Agriculture Organisation of the United Nations (FAO) and International Fund for Agricultural Development (IFAD).

32. *The Working Group* noted that John Deere has conducted studies of business models and financing in Africa, particularly Zambia; and the Working Group would reach out to determine whether it was publicly available or could be shared with RTF members.

33. The UNIDROIT Secretariat provided an update on its bilateral implementation activities with Georgia, Paraguay, Kenya, India and China. In relation to India, it was noted that India had not

engaged since the Diplomatic Conference, but following a high level delegation from UNIDROIT to India in July, the Indian Ministry of Foreign Affairs indicated they wanted to undergo internal discussions with the Ministry of Steel, Ministry of Mines, Ministry of Coal and Steel Authority of India internally to determine next steps. The RTF noted that to improve the prospects of success in India, it was important to involve Mahindra and the equipment manufacturer associations.

Item No. 6 Planning of future work

34. *The RTF agreed to the following future activities:*

- a. Invitation to Australia, Japan and Spain to become RTF Members.
- b. Establishment of a digital sharepoint for RTF Members.
- c. Creation of an excel implementation tracker for upload to the RTF sharepoint.
- d. Upload of the existing MAC trade data onto the RTF sharepoint.
- e. The UNIDROIT Secretariat to share its internal priority list of countries.
- f. RTF members to individually evaluate which countries are likely to implement the MAC Protocol within the next 24 months, with a view towards ideally listing 5 to 10 high priority States for discussion during the MAC RTF Second Session.
- g. RTF Members to continue individual efforts to promote the implementation and ratification of the MAC Protocol.
- h. As a long-term objective, the preparation of new economic impact assessments for the MAC Protocol at a global, regional and domestic level.

Item No. 7 Any other business

35. No other business was raised.

Item No. 8 Closing of the session

36. It was agreed that the second session of the RTF would be held on Tuesday 19 December 2023 between 14:00 to 17:00 CET.

37. *The UNIDROIT Secretary-General thanked the RTF for their attendance and participation and closed the session.*

ANNEXE I**ANNOTATED DRAFT AGENDA**

1. Opening of the session and welcome by the UNIDROIT Secretary-General
2. Adoption of the draft agenda
3. Composition of the Ratification Task Force
4. Objectives, strategy and proposed activities of the Ratification Task Force
5. Promotion and ratification update
6. Planning of future work
7. Any other business
8. Closing of the session

ANNEXE II**LIST OF PARTICIPANTS**Germany

Mr Lars Entelmann

Ms Celine Frey

United Kingdom

Mark Smith

Natalia Graczyk-Davies

Louise Gullifer

United States of America

Ms IfeanyiChukwu Egbuniwe

Mr Henry Gabriel

Ms Karin Kizer

Mr Padraic Sweeney

MAC Working Group

Mr Daryl Bouwkamp

Mr Alexander Russ

Mr Kip Eideberg

International Law Institute

Mr Marek Dubovec

UNIDROIT Secretariat

Mr Ignacio Tirado

Ms Anna Veneziano

Mr William Brydie-Watson

Ms Myrte Thijssen

Mr Ian Li

Ms Theodora Kostoula

Mr Camilo Saldias

Ms Sana Ali

ANNEXE II**SUMMARY REPORT****MAC Protocol Ratification Task Force****Second session****(Remote, 19 December 2023)**



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

EN

**MAC Protocol
Ratification Task Force
Second session (remote)
19 December 2023**

UNIDROIT 2024
MACRTF/2/Doc. 2
English only
March 2024

SUMMARY REPORT

MAC Protocol Ratification Task Force

Second session

(Remote, 19 December 2023)

1. The second session of the MAC Protocol Ratification Task Force (RTF) took place on 19 December 2023. The session was held remotely and was attended by 18 participants (the full list of participants is provided in Annexe II).

Item No. 1 Opening of the session and welcome by the UNIDROIT Secretary-General

2. On behalf of the *UNIDROIT Secretary-General*, Senior Legal Officer William Brydie-Watson welcomed participants to the second session. *The Secretariat* provided a brief update on recent progress on the implementation of the MAC Protocol (unrelated to ratification), including (i) the decision of the UNIDROIT General Assembly at its 82nd session (Rome, 14 December 2023) to accept the role of Supervisory Authority of the MAC Protocol Registry, and (ii) contract negotiations for the establishment of the MAC Registry.

3. New RTF participants briefly introduced themselves.

Item No. 2 Adoption of the draft agenda

4. The RTF adopted the draft agenda (provided in Annexe I).

Item No. 3 Approval of report from first session (MACRTF/1/Doc. 2)

5. *The Secretariat* briefly introduced the draft report, noting that (i) the document was a summary report and not a record of minutes, and (ii) the report was designed to only be used internally by the RTF and to report back to the MAC Preparatory Commission, and was not intended as a public document.

6. *The United Kingdom* noted a minor error in paragraph 25 and suggested that the word "outdated" should be replaced by "updated". *The RTF approved the proposed change*.

7. The RTF approved the draft report.

Item No. 4 Establishment of a digital sharepoint for RTF Members

8. *The Secretariat* reminded the RTF that at its first session in October 2023, the RTF had decided to create a digital sharepoint for RTF members, in order to provide a repository for the sharing of relevant documents, including (i) an excel implementation tracker, (ii) MAC equipment trade data, and (iii) the Secretariat's internal list of countries for ratification assistance. *The Secretariat* explained that the relevant documents had all been uploaded to the sharepoint, the link to which had been circulated to RTF members on 18 December 2023.

9. The Secretariat strongly encouraged RTF members to use and update the implementation tracker in order to ensure that it would actually become a useful tool. The Secretariat also encouraged RTF members to upload their own documents relevant to the promotion of the MAC Protocol to the sharepoint.

10. *The MAC Working Group* noted that the implementation tracker and other documents were of great use, and would be of particular value in trying to establish which States the RTF should prioritise in providing assistance.

11. It was queried whether geographical diversity should be an important factor in considering which States were best positioned to ratify the MAC Protocol quickly ('priority States'). *The Secretariat* suggested that geographical diversity should be a relevant factor and that priority States which had sufficiently progressed their ratification processes could be invited to observe the MAC

Preparatory Commission, although it might be preferable to keep the RTF membership limited to parties that wanted to promote the implementation of the MAC Protocol globally.

12. It was further suggested that it would be useful for the sharepoint to contain some sort of master calendar to allow RTF members to access information regarding future events.

Item No. 5 Promotion and ratification update

13. Under the leadership of the Association of Equipment Manufacturers (AEM), *the MAC Working Group* summarised its recent activities. It was explained that the MAC Working Group had two groups: (i) manufacturing industry associations from the MAC sectors, and (ii) company executives in the finance and legal departments. It was noted that the Working Group had expanded to include the European Construction Equipment Manufacturers Association (CECE) and the Argentinian equipment manufacturing association, and that AEM was in discussions with the Japanese, Korean and Chinese associations with the intention of including them in the future. It was further noted that the Working Group had met with the Aircraft Registry in November 2023 to discuss how the industry might need to engage regarding the design of the future MAC registry.

14. In relation to promotion, the Working Group noted that it was coordinating with the US Department of Commerce and State Department to organise a virtual briefing on the MAC Protocol for US Embassies in specific African States that had already ratified the Cape Town Convention. The intention of the briefing was to educate US officials on the MAC Protocol, and then subsequently work with those officials to identify relevant points of contact within the Government and bureaucracies of the target States. Once the points of contact had been identified, RTF Members could work directly with the identified officials to promote and assist with the ratification of the MAC Protocol. It was explained that should this approach be successful, it could be replicated in other parts of the world.

15. The RTF discussed the promotion of the MAC Protocol through different regional fora, including the EU, the East African Community (EAC), APEC, and possible future work with the Association of South East Asian Nations (ASEAN) and the Pacific Islands Forum (PIF). In relation to the EU, it was noted that there had not been sufficient support from EU States and stakeholders to pursue EU ratification of the MAC Protocol during the Belgian Presidency (January – June 2024), so the next opportunity would be during the Hungarian Presidency (July – December 2024), after the European Parliament elections in July. In relation to APEC, *the United States* explained that it was progressing the concept note for the APEC Economic Committee and its Strengthening Economic Legal Infrastructure (SELI) subgroup to adopt a project on agricultural finance and food security, which would promote the ratification of the MAC Protocol in APEC Member Economies. It was noted that the concept note would be submitted by March 2024 for approval while Peru was APEC Host Economy, with the intention of holding a first workshop in Japan during the period in which South Korea would be APEC Host Economy in 2025. It was further noted that there should be no need to hold a specific event in 2024 in order for APEC to adopt the project (as the Policy Dialogue in Seattle in August 2023 had established the necessary political support).

16. In relation to International Financial Institutions (IFIs), *the MAC Working Group* noted that it was in discussions with the European Bank for Reconstruction and Development (EBRD) in London to try to engage them at a political level through the US representative (building upon the technical discussions held by UNIDROIT at the EBRD HQ in September 2023). *The Secretariat* noted that it had met with the Asian Infrastructure and Investment Bank (AIIB) in Beijing in December 2023 to try to encourage the Bank to promote the MAC Protocol to support its project finance investments in the region. The Secretariat further explained that it had scheduled meetings with the World Bank Group in Washington DC in January 2024. It was also noted that there was a need to better engage the Export Credit Agencies (ECAs), and that Eximbank had begun to raise the MAC Protocol with the OECD.

17. The Working Group noted that the Secretariat had undertaken bilateral engagements to build support for the promotion of the MAC Protocol in Japan (October 2023) and China (December 2023), and that ongoing ratification assistance was being provided to Paraguay, Mauritius and Kenya.

18. The RTF reaffirmed the need for an updated MAC impact assessment, as discussed at its first session. *The Working Group* suggested that it would be beneficial for the impact assessment to cover legal, economic and development benefits of the MAC Protocol, rather than just the economic benefits. The Working Group had allocated some funding for the preparation of an updated impact assessment in 2024, and stressed that it would be useful to have the document drafted in the first part of year. *The Secretariat* agreed that a broader impact assessment would be useful, and could be achievable relatively quickly if the technical economic assessment was limited as compared to the 2018 Economic Assessment. The Secretariat further suggested that the International Law Institute might be well positioned to prepare the broader economic assessment. *The International Law Institute* indicated that it would be pleased to discuss how it could contribute to the project, on the basis that the document produced would indeed be a broader assessment, taking into account legal, economic and development benefits.

19. *The United Kingdom* noted that the Cape Town Convention Academic Project was planning a promotion event for the MAC Protocol alongside the annual Cape Town Convention Academic Conference in Cambridge in September 2024. It was explained that the event would provide an opportunity for legal experts, Government representatives from target embassies in London and private stakeholders to discuss the legal, economic and developmental benefits of the MAC Protocol. It was suggested that other MAC technology experts at the University of Cambridge and nearby manufacturers (such as New Holland) could also participate in the event. It was further suggested that the event might provide a good opportunity to launch the updated MAC impact assessment, if it was ready by September 2024.

Item No. 6 Planning of future work

20. It was agreed that the third session of the RTF would be held on either Tuesday 26 March 2024 14:00 – 17:00 CET, or Tuesday 23 April 2024 14:00 – 17:00 CET, depending on whether it was necessary to schedule an RTF session before the MAC Preparatory Commission's sixth session on 11 – 12 April 2024.

Item No. 7 Any other business

21. No other business was raised.

Item No. 8 Closing of the session

22. The Secretariat thanked the RTF for their attendance and participation and closed the session.

ANNEXE I**ANNOTATED DRAFT AGENDA**

1. Opening of the session and welcome by the UNIDROIT Secretary-General
2. Adoption of the draft agenda
3. Approval of report from first session (MACRTF/1/Doc. 2)
4. Establishment of a digital sharepoint for RTF Members
5. Promotion and ratification update
6. Planning of future work
7. Any other business
8. Closing of the session

ANNEXE II**LIST OF PARTICIPANTS**Germany

Ms Celine Frey

United Kingdom

Mark Smith

Natalia Graczyk-Davies

Louise Gullifer

United States of America

Ms Sarah Prosser

Ms Karin Kizer

Mr Pdraic Sweeney

Ms IfeanyiChukwu Egbuniwe

MAC Working Group

Mr Daryl Bouwkamp

Mr Alexander Russ

Mr Kip Eideberg

International Law Institute

Mr Marek Dubovec

UNIDROIT Secretariat

Ms Anna Veneziano

Mr William Brydie-Watson

Ms Giulia Previti

Mr Ian Li

Ms Theodora Kostoula

Mr Camilo Saldias