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**MAC Protocol  
Committee of Governmental Experts  
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## **COMMENTS**

(Submitted by the Government of the United States of America)

1. The United States of America appreciates the opportunity to comment on the preliminary draft Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Agricultural, Construction and Mining Equipment. We believe the draft is generally in very good shape; we would like to thank the UNIDROIT Secretariat for all of its efforts on the draft, and we commend the members of the Study Group on their invaluable contributions. We strongly support the decision to develop this new Protocol. By facilitating access to credit for the purchase and lease of mining, agricultural, and construction equipment, the new Protocol could provide a significant boost to development efforts in the areas of food security, infrastructure, and economic growth.
2. Although we look forward to further discussion of the draft at the first meeting of the Committee of Governmental Experts, we would like to provide the following initial comments for consideration by delegations in advance of the meeting.
3. First, we support the Study Group's decision to use prior protocols as models for this Protocol on issues for which such an approach was feasible. Given the demonstrable success of the Aircraft Protocol over the past decade, we believe that striving to take a similar approach in this new Protocol will help to maximize the chances of similar levels of economic impact.
4. Next, we also fully support the Study Group's decision to use the Harmonized System (HS) codes to identify the specific categories of equipment to be covered by the Protocol. This innovative approach is appropriate given the diverse types of equipment to be covered by this Protocol and the difficulties that would be encountered in attempting to craft lengthy definitions that would precisely identify all the relevant equipment. Similarly, we support covering the specific equipment currently encompassed by the lists of HS codes in the current draft. Based on our consultations with the private sector, we understand that the lists appropriately encompass equipment that is high-value, mobile, individually identifiable, and separately financed.
5. At the same time, we believe that further consideration should be given to the process of updating or revising the lists of HS codes. We support the inclusion of a streamlined process to ensure that the lists of HS codes can easily be kept current. However, if the HS codes are included in Annexes to the protocol itself, attempting to develop a streamlined process for updating the lists could raise difficult questions of treaty law and practice. Instead, we suggest that the articulation of specific HS codes be left to the Registry regulations (with the current lists of HS codes provided in a resolution of the diplomatic conference as guidance for the initial regulations). The Protocol itself could simply set forth generally the scope of the mining, agricultural, and construction equipment that is intended to be

covered—i.e., high-value, mobile equipment that is uniquely identifiable, separately financed, and used primarily in these sectors. These general scope restrictions would be used in keeping the lists of HS codes current (with specific assets only being covered by the Protocol's framework if they fall within a listed HS code).

6. We also suggest that the Committee of Governmental Experts consider whether Articles VII and X could be simplified. Article VII(1) may not be necessary. Moreover, it is unclear whether Articles VII(2) and X each need to include three Alternatives. We look forward to a thorough discussion of these questions.

7. Finally, it could be useful for the Committee of Governmental Experts to establish an informal working group to further discuss issues related to registrations of international interests. Given the large number of manufacturers of mining, agricultural, and construction equipment, consideration will be needed of how best to incorporate manufacturers' names into the registration process (whether by drop-down menus or otherwise).

8. Again, we greatly appreciate the excellent work that has been done by the Study Group and the Secretariat, and we look forward to participating in discussions of the draft during the meeting of the Committee of Governmental Experts.