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Generation II Of The International Registry Website The Closing Room: A Transactional Approach to Registrations

William B. Piels and Tan Siew Huay*

The International Registry, established pursuant to the Cape Town Convention and its Aircraft Protocol, will be establishing a new generation of its website during its eighth year of operations. The most significant change that will occur is the establishment of a closing room facility for assembling registrations. The closing room facility is expected to be in operation by mid-year 2014. The closing room facility will enable registry users to assemble all the data required to make the full set of registrations for a transaction, and will give the transaction participants the opportunity to review and agree to revise a complete set of planned registrations, all in advance of conducting a closing and placing such registrations into the International Registry data base. This article will examine the concepts underlying the closing room facility, describe the process for using this new facility and consider some expected practices and questions.

1. Introduction

The international registry for aircraft objects (the 'International Registry') was established in March 2006 pursuant to the Convention on International Interests in Mobile Equipment (the 'Convention') and the Protocol to the Convention on Matters Specific to Aircraft Equipment (the 'Protocol'), both signed at Cape Town on November 16, 2001.¹ Other articles in this

journal have ably described the way in which the International Registry has operated since its inception, the supervisory framework for the International Registry, and its tremendous success as measured by how the number of states adopting the Convention has grown and by the virtual absence of controversy regarding the operation of the International Registry.² This article describes the way in which the International Registry website is evolving to become a better facility for the aircraft finance and leasing community.

The Official Commentary identifies the principal objective of the Convention as facilitating the efficient financing and leasing of mobile equipment.³ The success of the International Registry has

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¹ Also commonly referred to as the Cape Town Convention 2001 and the Protocol to the Cape Town Convention 2001, respectively.

² Jane K. Winn, 'The Cape Town Convention's International Registry: Decoding the Secrets of Success in Global Electronic Commerce' (September 2012) *Cape Town Convention Journal* 25.

³ Roy Goode, *Official Commentary on the Convention on International Interests in Mobile Interests and Protocol thereto on Matters Specific to Aircraft Equipment* (3rd edn, UNIDROIT 2013) (the 'Official Commentary'), para 2.1.

been built upon the focus of its registrar⁴ (the ‘Registrar’) on the following elements of the International Registry system, all of which are essential to establishing the foundation for an efficient registry of interests:

- careful adherence to the requirements found in the Convention in relation to:
 - what may be registered,
 - who is required to act in order to effect a registration, and
 - what data is required to ensure the accurate identification of an aircraft object and constitute a valid registration against it; and
- the willingness to explore, develop and implement improved technological processes that ensure data security and integrity, system speed and system reliability.

With these elements in place, the Registrar has expanded its focus to finding ways in which the registration process can be streamlined and the overall experience in using the International Registry website can be enhanced.

The most recent development in the evolution of the International Registry, which occurred in September 2013, is referred to as ‘Generation II’, and it includes a comprehensive redesign of the International Registry website that will be implemented in two primary phases.⁵ The Generation II website has been thoughtfully reconstructed to provide users of

the system with a simpler and more intuitive process for assembling and entering the data required to place registrations into the International Registry data base.

The most significant single innovation in the first phase of the Generation II website is the addition of what is referred to as the capability for making multiple object registrations. This new capability makes available features that will enable the International Registry users to group several aircraft objects together for the purpose of registering the same international interest against each of them. For example, an aircraft consisting of three aircraft objects (an airframe and two engines) may be grouped together for the purpose of registering a lease that is common to them all. Previously, the registration process for constituting an international interest registration with respect to an aircraft object had to be completed in its entirety before a registry user could go on to a registration for the next object. As a result, all the required information had to be entered for each registration against each aircraft object (e.g., certain information for the registry user, names and capacity of the parties to, and the type of, registrations, passwords to use the system and payment information), necessitating a great deal of repetitive data entry. The multiple object registration facility will eliminate such repetitive effort.

While the first phase of the Generation II website will be a significant step forward in the efficiency of the International Registry, the more revolutionary development is scheduled to occur in a second phase, which is expected to become operational by midyear 2014.⁶ The second phase of the Generation II website will include the establishment of a new user facility called the ‘closing room’. The Supervisory Authority⁷ has ap-

⁴ Pursuant to Article 17(2)(b) of the Convention, Aviareto Limited, based in Dublin, Ireland, has been appointed by the Supervisory Authority and serves as Registrar for the International Registry.

⁵ The features of the International Registry system that are available in Generation II are subject to the ICAO Regulations and Procedures for the International Registry (5th edn, 2013) doc 9864, http://www.icao.int/publications/Documents/9864_5ed.pdf, accessed August 13, 2013 (the ‘Regulations’). All references herein to the ‘Regulations’ and to the ‘Procedures’ are to those found in the currently effective and published fifth edition, except that the Closing Room Regulation (n 10) is found in the not yet published sixth edition. Note that the section references in the fifth edition of the Regulations differ substantially from those in the sixth edition of the Regulations.

⁶ Email from Rob Cowan, Managing Director of Aviareto Limited, to the authors (22 July 2013).

⁷ The International Civil Aviation Organization (ICAO) is the Supervisory Authority for the International Registry having been designated by Resolution No. 2 adopted by the Diplomatic Conference (held under the joint auspices of the International Institute for the Unification of Private

proved⁸ the new regulation (comprising Section 5.18 of the Sixth Edition of the Regulations and its Appendix) that will allow for the establishment of the closing room (the ‘Closing Room Regulation’).⁹ An advance copy of the Closing Room Regulation is attached as an Annex to this article.¹⁰ The Closing Room Regulation will be officially published and take effect before the closing room facility becomes functional.

This article: (i) examines the principal concepts underlying the closing room facility and the structure of the Closing Room Regulation; (ii) describes the user process for creating a closing room on the International Registry website, entering data and consents, and releasing registrations for entry into the International Registry data base; and (iii) considers some expected user practices and questions on the use of a closing room.

2. Closing Room Concepts and Regulation Structure

A. Concepts

In the prior versions of the International Registry website, all registrations were submitted for entry into the International Registry data base, and became effective, on an object-by-object and registration-by-registration basis, as soon as all the registration data and consents for a particular registration on a particular object had been assembled. The multiple object registration capability (coinciding with the Fifth Edition of the Regulations) improves the efficiency of the

registration process by allowing the grouping of objects for the registration of an interest common to all of them. The closing room (to be introduced in the Sixth Edition of the Regulations) moves the registration process from one where submissions for registrations by a user are made one by one (Generation I) to one where submission for registrations by a user may be made in multiples with either only one common registration to be effected per aircraft object (multiple object registration) or no limit on the registrations to be effected per aircraft object (closing room facility). The closing room facility recognizes all the elements of a transaction, and allows the parties to assemble and edit would be registrations off-line over a period of time, and then enter the registrations into the International Registry as a completed package that fully reflects the terms of the transaction relating to registrations.

How is it possible that the International Registry system could make such a dramatic change in its processes and orientation without any change being made to the Convention or the Protocol? The drafters of the Convention and Protocol recognized that an electronic system of registration would evolve over time with advent of new technologies and capabilities. While the Convention and the Protocol establish all the fundamental concepts that relate to registrations (e.g., what constitutes an interest that may be registered, what data is required to identify an object and describe the interest being registered, who may make a registration and who must consent), the registration process is largely left to be dealt with in the Regulations.¹¹ The Official

Law (‘UNIDOIT’) and ICAO at Cape Town from 29 October to 16 November 2001) pursuant to Article XVII of the Protocol.

⁸ Convention, Article 17(2)(d).

⁹ The Supervisory Authority is advised by a Commission of Experts for the Supervisory Authority of the International Registry (CESAIR). CESAIR considered the Closing Room Regulation and recommended to the Council of ICAO its adoption with certain modifications in April 2013.

¹⁰ The reproduction of the Closing Room Regulation in the Annex to this article is with the permission of ICAO.

¹¹ Article 18(1) of the Convention provides as follows: The Protocol and regulations shall specify the requirements, including the criteria for identification of the object: (a) for effecting a registration (which shall include provision for prior electronic transmission of any consent from any person whose consent is required under Article 20); (b) for making searches and issuing search certificates, and subject thereto; (c) for ensuring the confidentiality of information and documents of the International Registry other than information and documents relating to a registration.

Commentary summarizes the way in which this structure allows the International Registry system to evolve as follows:

While the ensuing Articles prescribe various matters relating to registrations and searches in the International Registry, the detail is left to be supplied by the relevant Protocol and by registry regulations. The registry system is constantly developing as technological advances enable facilities to be expanded and earlier problems overcome. Major enhancements, include the introduction of an electronic closing room, are due to be made to the International Registry for aircraft objects in 2014 and will be reflected in the sixth edition of the regulations due to come into force during that year.¹²

A closing room may be thought of as an electronic folder. Although the folder is established at the International Registry website, it is separate from the International Registry data base (a matter of critical importance, as will be discussed shortly). The purpose of the folder is to allow users of the International Registry to assemble all of the information and consents required to effect one or more registrations against one or more aircraft objects, and to establish the chronological order in which such registrations should take effect, all prior to the release of such registrations into the International Registry data base. The Closing Room Regulation uses the term ‘prepositioned registration’¹³ to describe the status of a registration that has been assembled in the closing room and not yet released for entry into the International Registry data base.

The most important distinction between the process of registering an interest through the closing room and the process of registering an interest in earlier versions of the International Registry website is that all of the information required to complete the registration, including all of the consents required, may be assembled, reviewed and considered by the parties to

a transaction without proceeding to enter any data on the International Registry data base until some later time, or indeed, at all. Thus, unlike prior procedures, the parties to a transaction will have the ability to review and consider prepositioned registrations and priorities of prepositioned registrations, and either agree upon the prepositioned registrations in the form originally proposed or agree upon changes, all over such period of time as the parties choose and without registering any interests in the related aircraft objects until such time as the parties choose to have the prepositioned registrations released into the International Registry data base and thereby become completed registrations.

A further distinction between the prior registration process and the closing room, of nearly equal importance to the ability to review prepositioned registrations, is that the closing room facility will enable the parties to a transaction to assemble and view an entire group of prepositioned registrations of all types and across all objects involved in the transaction before electing to release the prepositioned registrations for entry into the International Registry data base. Thus, when the parties view the assembled closing room prepositioned registrations, they will be in a position to view all of the elements of the transaction as it will appear on the International Registry data base, when and if the transaction proceeds to a closing, including the relative priorities of different interests in the same aircraft objects.

Thus, by moving to a transaction based registration process the International Registry will improve efficiency in several ways. First, less time will be required to complete the data entry process because objects may be grouped for entry of common registrations of varying types. Repetitive data entry will be minimized. Second, by separating the data entry process from the registration process (that is, by allowing registration data to be assembled over time in the closing room rather than entered directly into the International Registry data base), it will be easier to identify and correct data entry errors at inception. Third, because the entire

¹² Goode (n 3) para 4.133.

¹³ Closing Room Regulation, Appendix para 1.1. All references herein to the ‘Appendix’ are to the Appendix to the Closing Room Regulation (n 10).

set of prepositioned registrations for a closing room may be reviewed and commented upon by all parties to the transaction in advance of release into the International Registry data base, misunderstandings about the intended priorities of interests may be identified and reconciled. As a result of the foregoing, it is far less likely that errors will be undetected until a post-registration priority search is conducted, and parties will be able to avoid registering amendments and subordinations in order to make the necessary corrections. Finally, as the entire data entry process is completed in advance of a closing and all of the prepositioned registrations are released at once into the International Registry data base immediately when the closing is authorized by the parties, the parties to a transaction will be able to review completed priority search certificates for their transaction promptly following the closing, without having to wait for the data entry process to be completed.

The provisions of the Convention that enabled the Registrar to move from an object-by-object system of registration to a transactional system of registration through the use of a closing room facility are found in Chapter V of the Convention. Most directly on point, Article 19 of the Convention provides as follows:

2. A registration, if valid, shall be complete upon the entry of the required information in the International Registry data base so as to be searchable.
3. A registration shall be searchable for the purposes of the preceding paragraph at the time when:
 - (a) the International Registry has assigned to it a sequentially ordered file number; and
 - (b) the registration information, including the file number, is stored in durable form and may be accessed at the International Registry.

The provisions of Article 19 of the Convention quoted above make clear that a registration is not considered complete until all of the following actions have been taken:

- the registration is entered into the International Registry data base;

- all of the registration information (including the file number for the registration) for the registration can be accessed through a search of the International Registry data base; and
- a sequentially ordered file number has been assigned to the registration by the International Registry system.

A prepositioned registration does not enter into and is not part of the International Registry data base because it resides in an electronic folder that is separate from the International Registry data base. Although a prepositioned registration will be capable of being reviewed by certain participants in the closing room, it will not be accessible through a search of the International Registry data base and therefore will not be “searchable” within the meaning of Article 19 of the Convention. A prepositioned registration is therefore not the result of either of the first two actions required for completing a registration. The remaining action, assigning a file number, will also not be taken.¹⁴ Instead, the International Registry system is expected to assign reference numbers to prepositioned registrations as a matter of convenience to the parties using the closing room facility.¹⁵ The reference number for a prepositioned registration will enable the parties to:

- uniquely identify prepositioned registrations within a closing room;
- create relationships between prepositioned registrations (such as the assignment of a prepositioned registration from one party to another or the subordination of one prepositioned registration to another prepositioned registration);

¹⁴ Convention, Article 18(1) and Article 18(2).

¹⁵ Convention, Article 18(4) and Article 19(3)(a). The Registrar explained its plans for assigning file numbers in its Working Paper for the Commission of Experts of the Supervisory Authority of the International Registry, Sixth Meeting, ‘Consideration of Registrar’s request for change to the Regulations and Procedures for the International Registry to be submitted to the Counsel’ (February 27, 2013) 63.

- clearly identify the prepositioned registration being assigned, subordinated or with respect to which some other action is being taken for purposes of giving a consent;
- establish a convenient historic reference for linking a prepositioned registration to its completed registration counterpart.

However, it is important to understand the distinction between a closing room reference number and a sequentially ordered file number and the time frame as to when they are relevant: (i) the reference number is assigned to a prepositioned registration to facilitate much of the work that is done in the closing room and prior to the time that a prepositioned registration has been released for entry into the International Registry data base¹⁶ and (ii) the “sequentially ordered file number” will only be assigned to a registration at the time when a prepositioned registration has been released from the closing room and is being entered into the International Registry data base.¹⁷

The Closing Room Regulation was drafted with considerable care to confirm that a prepositioned registration should not be misconstrued as constituting a completed registration. Paragraph 1.2 of the Appendix states, without equivocation, that a prepositioned registration is not searchable for purposes of, and has no legal effect under, the Convention or Protocol. The Official Commentary reached the same conclusion, observing that:

When the proposed closing room facility is established, the assembly of information in the closing room will not constitute registration, for this does not take effect until released in the International Registry and entered into its data base so as to become searchable (Article 19(2)). It follows that the fact that information in the

closing room may itself be searchable is irrelevant to the time when a Convention registration takes effect.¹⁸

Accordingly, in reviewing references in the Convention and the Protocol to a ‘registered interest’ parties must keep in mind that a prepositioned registration is not a registered interest because a prepositioned registration has not been ‘registered’ pursuant to or within the meaning of Chapter V of the Convention.¹⁹ The importance of that distinction cannot be overstated. There are many references in the Convention where the distinction between a registered interest and an unregistered interest is relevant. One such obvious and important reference is in Article 29(1) of the Convention which establishes the basic rule of priority: that a registered interest has priority over an unregistered interest.

B. Regulation Structure

The Closing Room Regulation establishes a facility, or a tool, for the users of the International Registry to assemble all varieties of registrations, but does not specify the information or other requirements for constituting any particular type of registration. This is because the relevant requirements with respect to each type of registration are included in other sections of the regulations.²⁰

The Closing Room Regulation does not change the composition of the information required to constitute a registration. It provides a new way of using the International Registry system.

The Closing Room Regulation is drafted in a fashion that differs from the other sections of the regulations by its use of an Appendix. The Closing Room Regulation, in its body

¹⁶ Working Paper (n 15) 63.

¹⁷ The Registrar expects to append the reference number from the closing room to its corresponding sequentially number file number for a registration so as to establish a clear record of the connection between the two in the priority search certificate.

¹⁸ Goode (n 3) para 4.144.

¹⁹ See also the discussion in Section 4(C) at n 61 and n 63. In many cases the prepositioned registrations in a closing room will relate to interests that do not yet qualify as international interests because the formal requirements for constituting an international interest are still in process.

²⁰ Appendix, para 3.2 and section 5 of the Regulations.

(which is section 5.18 in the Sixth Edition of the Regulations), covers all of the concepts that establish the terms of the closing room facility:

- assembly of the required information in advance of completing a registration;
- coverage of multiple forms of registrations and multiple objects; and
- setting the chronological order of prepositioned registrations.

The Appendix to the Closing Room Regulation provides a more precise narrative description of the closing room facility, including the conditions and procedures to be used by the registering parties. The other sections of the regulations rely solely upon the body of procedures established under regulation 15 for detailing the technical operation and administrative processes that complement and support the regulations. As may be seen from a review of the Closing Room Regulation in the Annex to this article, the Appendix is a detailed document that is drafted as a set of expository paragraphs. The Appendix guides the reader through the steps for using the closing room in a roughly chronological order, starting with ‘establishing a closing room’ and continuing through to ‘payment of fees’ and ‘entering prepositioned registrations into the International Registry data base’. Of course, the relevant provisions found in the Appendix could have been integrated into the procedures to make the drafting style for the Closing Room Regulation consistent with other regulations. A different style of drafting has been chosen with a view to assisting the user community to understand more easily the processes for constituting registrations through the use of the closing room facility.

3. Process for Creating and Using a Closing Room

We will turn now to examining the steps that registry users will take in order to use the closing room facility in connection with making registrations on the International Registry. Those steps consist of :

- creating a closing room; inviting participants²¹ and entering registration data;
- collecting consents and submitting payment to the International Registry; and
- releasing prepositioned registrations into the International Registry data base.

We will also examine special closing room rules relating to compliance with requirements of entry points.²²

A. Creation and Data Entry

Any registry user entity may establish a closing room.²³ The registry user entity that establishes the closing room is automatically constituted as the ‘coordinating entity’ for the closing room.²⁴ The coordinating entity is the only person who may enter registration data in the closing room, including the object

²¹ All persons who have access to a closing room are referred to as the ‘closing room participants’. Appendix, para 3.4.

²² Regulations, s 12.1. Under Article XIX(1) of the Protocol a contracting state may designate an entity in its territory as an ‘entry point’. The entry point established by a contracting state may participate in the International Registry’s registration process in one of two ways. Pursuant to regulation 12.1, an entry point may issue an authorization for a registering party to proceed with a registration, in which case it is referred to as an ‘authorizing entry point’, or an entry point may require registering parties to provide it with all the relevant registration information so that the entry point may directly transmit the would-be registrations to the International Registry data base, in which case it is referred to as a ‘direct entry point’. As of the date of this article seven contracting states (Albania, Brazil, China, Mexico, Ukraine, the United Arab Emirates and the United States) had elected to be authorizing entry points. No contracting states have a current election to be a direct entry point.

²³ Appendix, para 2.1. The term ‘registry user entity’ is defined in section 2.1.13 of the regulations. Note that a person must qualify as a ‘registry user entity’ in order to establish a closing room. This means that the person must go through the steps required to have access to the International Registry, as provided in section 4 of the Regulations.

²⁴ Appendix, para 2.2.

descriptions, types of interests and sequence of registrations.²⁵

As will be discussed below the role of the coordinating entity is extremely important and can be much more than data entry. Because of this, due consideration should be given to make sure the right person or organization has been chosen for this position and that it not be awarded to the registry user who was first to establish a closing room. In that regard it is important to note that the coordinating entity position may be transferred from one registry user entity to another.²⁶ Thus, parties to a transaction have the ability to engage one registry user entity to take all actions necessary to establish a closing room for a transaction, at which point the responsibility as coordinating entity may be transferred to another user entity. For example, consider a complex lending transaction that will require a significant amount of data entry to assemble all of the prepositioned registrations. The parties to such a transaction may elect to engage a law firm that is experienced and staffed in a way that allows them to assemble a complex closing room in a cost efficient manner. Once the data entry process is complete and all parties are satisfied with the closing room, the parties may wish to transfer authority of the coordinating entity for the closing room to the lender's counsel or the borrower's counsel, putting them in position to manage the closing.

When a closing room has been established, the coordinating entity may electronically "invite" other registry users to review the information in the closing room.²⁷ The invitations can be issued at any time during the process and careful consideration should be given to which parties are invited and when. Persons invited to review information in a closing room have

'read-only' access.²⁸ That is, while such persons are able to see all of the data entered by the coordinating entity, they may not modify the information directly. It is envisioned that the parties to a transaction will communicate with one another about any changes they wish to make in the prepositioned registrations, and following agreement among the parties to such changes, the actions to carry out the revisions will be the responsibility of the coordinating entity.

At any time prior to a transaction closing – this would be any time before the prepositioned registrations have been released – a coordinating entity may 'extinguish' a closing room.²⁹ That action will result in the closing room being cleared away, and in order to restore the closing room for the relevant transaction, the parties will need to begin again by having a registry user entity establish a new closing room, reenter all the relevant data and collect all the consents necessary to constitute the prepositioned registrations.

When a closing room is established, the International Registry will create a unique identifier, referred to as the 'closing room ID'.³⁰ Persons who are invited to review data in a closing room may locate the closing room through a search function using the closing room ID.³¹

After a coordinating entity is satisfied that all of the prepositioned registrations needed for the transaction have been assembled in the closing room and that the parties to the transaction are satisfied that the data and priorities correctly reflect their intention, the closing room may be 'locked' by the coordinating entity.³² Locking a closing room will preclude the coordinating

²⁵ Appendix, para 3.1. The 'registry users' (as defined in section 2.1.13 of the Regulations) who work under the registry user entity that acts as the coordinating entity for a closing room may also enter and edit data in the closing room.

²⁶ Appendix, para 3.5.

²⁷ Appendix, para 3.4.

²⁸ Appendix, para 3.4.

²⁹ Appendix, para 2.4.

³⁰ Appendix, para 2.3.

³¹ Appendix, para 2.3.

³² Appendix, para 3.3. The closing room system does not require the coordinating entity to confirm that the parties to a transaction have signed off on the prepositioned registrations before locking the closing room, but will wish to do so a practical matter.

entity from making any further edits to the registration data in the closing room.³³ At this point, the closing room should fully reflect the registrations that the parties have agreed to make in order to reflect the registrable elements of their transaction on the International Registry.

B. Consent and Payment

When a closing room has been locked, the International Registry will automatically issue a link (including certain information discussed below) to all closing room participants (including those whose consent to the prepositioned registrations is required under the Regulations in order for such prepositioned registrations to be effective).³⁴ Such persons may have already received access to the closing room via the discretionary invitations issued by the coordinating entity, and the coordinating entity may issue additional discretionary invitations to the closing room at this stage. In most cases the most efficient approach to this process will be to issue invitations to each registry user entity (including each professional user entity) who is participating in the transaction shortly after the closing room is created. The only case in which a different approach is needed would be if there are aspects of the transaction, including the identity of certain parties, that are still being negotiated.

The International Registry will automatically issue a notice to all of the closing room participants that sets out all of the following information:³⁵

- the identity of the coordinating entity;
- a link to the closing room and the closing room ID;
- a statement that the closing room is available for parties to provide their consent to the prepositioned registrations;
- a statement as to the duration of time that the closing room will remain accessible for purposes of giving consent and reviewing information.

³³ Appendix, para 3.3. The only exception is the ability to enter AEP codes (see paragraph 8.2 of the Appendix).

³⁴ Appendix, para 4.1.

³⁵ Appendix, para 4.1

In addition, the foregoing notice will include a ‘pre-registration’ report. That report will show all of the prepositioned registrations in the closing room and will include the chronological order of such prepositioned registrations when there is more than one registration for a particular aircraft object.³⁶ This is a critical document that should be the subject of careful review by each closing room party prior to giving or authorizing its consent to any prepositioned registrations.

A closing room that has been locked will remain available for review and for providing consent to prepositioned registrations by the parties to the transaction for an initial period of 10 days, which may be extended by action of the coordinating entity.³⁷ The maximum duration of a closing room, after the date that it has been locked, is 120 days. Presumably, parties will not lock a closing room until a closing date has been established. The time limit for the closing room is not expected to result in any inconvenience to closing room participants.

After a closing room has been locked, each party who must give its consent to a registration

³⁶ While a pre-registration report contains information that is very much like the information that the parties should find in a priority search certificate (as defined in section 7.4 of the Regulations) obtained after the transaction closes, the pre-registration report will describe prepositioned registrations instead of completed registrations. It will not list any of the registrations for an object that are already on the International Registry. The pre-registration report is a useful tool for the parties to check that prepositioned registrations are properly assembled and ordered in the closing room. However, it will not give any assurance that the International Registry data base correctly reflects any completed registrations, nor will it give a complete picture of the registration status of an aircraft object. For that assurance and for a complete report the parties must obtain a priority search certificate.

³⁷ Appendix, para 5.3. Note that the time period begins to run after the closing room is locked. There is no specific duration limit established for an unlocked closing room. After gaining experience with the way in which closing rooms are used, the Registrar may find that it needs to establish a method for extinguishing unlocked closing rooms that have been effectively abandoned.

will have the opportunity to affirmatively give such consent or decline to give such consent by entering the closing room and taking such action.³⁸ It will not be possible to provide such consent prior to the time the closing room is locked. The closing room will operate to provide the appropriate party under the terms of the Convention with the unique right to signify consent or decline to give consent. The efficiency of the professional user function has been preserved and any party may delegate its ability to provide consent to a professional user. However, the Closing Room Regulation also provides that a party may revoke such professional user delegation at any time while the related prepositioned registration is pending in a closing room and that such revocation of the delegation will have the effect of revoking the consent to that prepositioned registration.³⁹

Once a party gives its consent, or declines to give its consent, to a prepositioned registration, such party will retain the ability to change its decision up to the time when the prepositioned registrations are released for entry into the International Registry data base.⁴⁰ It is to be noted that none of the prepositioned registrations in a closing room may be released into the International Registry data base unless the consents required for every one of the prepositioned registrations has been obtained.⁴¹ For example, if a closing room contains registration data for as many as 100 prepositioned registrations, the absence of a consent for any one of them will prevent the entry into the International Registry data base of the remaining 99 prepositioned registrations.

While a coordinating entity may not make any edits to the registration data in the closing room while the closing room is locked, the coordinating entity will have the ability at any time to 'unlock' the closing room.⁴² Unlocking the closing room will

have the following consequences: (i) the coordinating entity can now make edits to the prepositioned registrations, invite new parties and enter new data, (ii) all consents to prepositioned registrations that were entered in the locked closing room are revoked,⁴³ and (iii) an automatic notice will be issued by the International Registry to all of the closing room participants that the closing room has been unlocked.⁴⁴

Presumably, a coordinating entity would unlock a closing room because the parties to the transaction had made a determination that one or more of the registrations included in the closing room needed to be modified or deleted or that the priority needed to be changed. This could occur, for example, if one of the aircraft objects that had originally been designated for the transaction were replaced by a different aircraft object (a not infrequent occurrence with respect to aircraft engines). After unlocking the closing room, the coordinating entity will be free to take the actions that the parties have agreed are needed in order for the closing room to be in proper form for their transaction.⁴⁵ Once the coordinating entity has put in place all of the agreed changes to the prepositioned registrations, the coordinating entity may once again lock the closing room. Doing so will trigger a new notice to all of the closing room participants and recommence the period for collecting all the necessary consents.

Once a closing room has been locked, and whether or not all consents necessary for all of the prepositioned registrations in a closing room have been collected, the coordinating entity will be able to make a payment to the International Registry of the registration fees covering all of the registrations.⁴⁶ Parties will likely wish to collect all the consents in advance of payment in order to obtain some degree of certainty that the transaction is going close. However, if the transaction does not close the

³⁸ Appendix, para 4.2.

³⁹ Appendix, para 4.5 and Regulations, s 2.1.3.

⁴⁰ Appendix, paras 4.3 and 4.4.

⁴¹ Appendix, paras 4.6 and 7.1.

⁴² Appendix, para 5.1.

⁴³ Appendix, para 5.2.

⁴⁴ Appendix, para 5.2.

⁴⁵ Appendix, para 5.2.

⁴⁶ Appendix, para 6.1.

fees paid may be recovered from the Registrar, less applicable third party processing expenses.⁴⁷ The payment is the final step that must be taken before the prepositioned registrations collected in a closing room may be submitted to the International Registry data base.⁴⁸

C. Submission of Registry Data

After the closing room has been assembled in full with all necessary registration data and consents and the registration fees have been paid, the coordinating entity will have access to a command feature in the closing room that allows it to issue an instruction to the International Registry that will cause all of the prepositioned registrations assembled in the closing room to be entered into the International Registry data base in the chronological order specified in the pre-registration report.⁴⁹ The Appendix states that when prepositioned registrations are entered into the International Registry data base they are considered 'registered' for the purposes of the Convention.⁵⁰ At that point, the prepositioned registrations will have become searchable registrations and the International Registry will automatically issue its notice of registration to all of the parties to the registrations that have been made.⁵¹

It is important to note that the parties bear responsibility for ensuring that the prepositioned registrations entered into the International Registry data base match the registrations that they intended to make. The Appendix explicitly allocates responsibility for such confirmation to all of the closing room participants, and establishes a 72 hour period within which any discrepancy should be reported to the Registrar.⁵² To constitute a discrepancy, the

registrations in the International Registry data base must differ from the prepositioned registrations in the pre-registration report. This means that the fact that a prepositioned registration was placed in the closing room unintentionally and was subsequently consented to and released into the International Registry data base by mistake, would not constitute a discrepancy. Discrepancies, as described in the Appendix, would be limited to deviations from intended registrations that come about as a result of some error in the functioning of the International Registry system, and not due to some mistake or misunderstanding by the parties.⁵³ Discrepancies between prepositioned registrations in a pre-registration report and a priority search certificate may be corrected by following the actions specified in Section 5.17 of the Regulations.

After the prepositioned registrations in a closing room have been entered into the International Registry data base, the closing room will be extinguished automatically.⁵⁴ The Registrar will retain a record of the pre-registration report so that parties may obtain copies of that report and make comparisons to the corresponding priority search certificate and confirm that the prepositioned registrations entered into the International Registry data base conform to the pre-registration report. Likewise practitioners will have been provided with the pre-registration reports and should maintain a permanent copy of the same along with the relevant priority search certificates.

D. Conditions and Procedures for Entry Points

The normal user process for using a closing room will be varied slightly in instances where registrations are subject to an entry point.⁵⁵ Two types of entry points exist: authorizing entry points and direct entry points.⁵⁶ By necessity, these are treated differently in the closing room process.

⁴⁷ Appendix, para 6.3.

⁴⁸ By necessity, the closing room will result in a different set of metrics that apply to registration fees. However, the Registrar is designing the new fee arrangements in way that will be revenue neutral.

⁴⁹ Appendix, paras 7.1 and 7.2.

⁵⁰ Appendix, para 7.2.

⁵¹ Regulations, s 6.2.

⁵² Appendix, para 7.4.

⁵³ Appendix, para 7.4.

⁵⁴ Appendix, para 7.3.

⁵⁵ Appendix, para 8.1.

⁵⁶ Regulations, s 12.1.

The process modification for an authorizing entry point is modest. The coordinating entity may enter the authorization codes (or 'AEP codes') for the relevant prepositioned registrations before or after the closing room has been locked and up to the time of the release of the prepositioned registrations for entry into the International Registry data base.⁵⁷ This allows the parties to adapt to authorizing entry point procedures that might make the required AEP codes unavailable earlier in the registration process. It is to be noted that AEP codes are the only information relating to prepositioned registrations that may be entered into the closing room after the closing room has been locked.

The modification of procedures with respect to a direct entry point is slightly more significant. In such a case, the direct entry point official will be required to enter the closing room and provide its authorization before the coordinating entity is allowed to release the prepositioned registrations in that closing room for entry into the International Registry data base.⁵⁸ The giving of such authorization is the only action required of the direct entry point official. The direct entry point official would not be required to enter any registration data itself or actually release the prepositioned registrations.⁵⁹

All the registration data is to be entered by the coordinating entity regardless of whether release of the prepositioned registrations (or any of them) into the International Registry data base is subject to the authorization of a direct entry point or not. Similarly, it is the coordinating entity who will be charged with the responsibility for taking the final action required to release the prepositioned registration into the International Registry data

base. If even one prepositioned registration in a closing room is linked to a direct entry point jurisdiction, it will be necessary to have the direct entry point official enter the closing room and give its authorization before any of the prepositioned registrations may be released for entry into the International Registry data base. This is because none of the prepositioned registrations in a closing room may be released unless the requirements for the release of all them have been satisfied.

4. Closing Room Practices and Questions

The closing room represents a substantial departure from the way in which data is entered into the International Registry data base currently. However, the closing room is designed to reflect and fit into the normal flow of aviation financing and leasing transactions in a way that should not interfere with the preferences and expectations of the parties. Nevertheless, as with any new process or procedure, some questions may be anticipated and certain practices will need to develop. The following items represent a handful of such matters.

A. Closing Room Scope

An initial question to be addressed by transaction participants will be how many aircraft objects and aspects of their transaction they wish to include in a single closing room on the International Registry website. Previously, the parties could establish registrations on only an object-by-object basis and only one type of registration per object at a time. Questions about how many different parties would be allowed to view a sequence of registrations involved in a transaction did not arise. The closing room facility changes the dynamics dramatically.

Consider for example a relatively common transaction in which a manufacturer is scheduled to deliver an aircraft on the closing date to its airline customer. The airline customer has arranged for a sale of that aircraft

⁵⁷ Appendix, para 8.2.

⁵⁸ Appendix, para 8.3.

⁵⁹ Indeed, because paragraph 8.3 of the Appendix specifically excludes any direct entry point from the definition of 'registry user entity', a direct entry point could not designate itself as a coordinating entity and therefore would not be able to enter any data in a closing room.

on the delivery date to a leasing company who will in turn deliver the aircraft under lease to the airline. The leasing company, in this example, is funding its purchase of the aircraft by using mortgage financing from a lender. Depending on how one looks at the scope of the transaction, the parties participating in it include a manufacturer, in its capacity as a seller; the airline, in its capacity as a buyer, a seller, and a lessee; a leasing company, in its capacity as a buyer, a lessor, and a borrower; and a lender, in its capacity as a mortgagee. So long as the parties intend to have a substantially contemporaneous closing of all of these related transactions, and the parties are willing to disclose each aspect of the transaction to all of the parties, it is possible to establish one closing room for all of the parties and all of the proposed registrations. Will parties wish to use a single closing room with a scope of such breadth? That remains for market practice to determine and may well vary from one set of transaction participants to the next. There is nothing to prevent the parties from segregating parts of the transaction into separate closing rooms so that, for example, the purchase from the manufacturer is not in the same closing room as the onward sale by the airline to the leasing company.

B. Deal Privacy

The International Registry will include a feature that allows users to search for closing rooms. Although that capability may cause some to have concerns about the confidentiality of their transaction, confidentiality should not be at risk. This is because the search feature will allow people to find a closing room by using the random and unique identification number assigned by the International Registry to a particular closing room at the time it is established. Thus, in order to use the search feature effectively, one would need to know the relevant identifier. The information contained in the identifier would not provide any clues as to the parties or equipment involved in the transaction. Even if a stranger to a transaction were to obtain the closing room identifier and

conduct a successful search, that stranger would not be able to enter the related closing room. Only a registry user who either has been invited by a coordinating entity or who has a right of consent over a registration in that closing room will be able to enter. In other words, strangers will not have any ability to enter a closing room and review the prepositioned registrations.

C. Clouds on Title and Prospective Registrations

The closing room is a facility for collecting prepositioned registrations in aircraft objects in advance of entering such prepositioned registrations into the International Registry data base. As a prepositioned registration in a closing room will encompass all of the same data one would need in order to constitute a registered interest, one may pose the question whether lodging a prepositioned registration in a closing room constitutes a cloud on the title of the relevant aircraft object (under national law or the Convention) or could constitute the creation of a ‘prospective international interest’ within the meaning of the Convention. Even a cursory review of the relevant facts and definitions in the Convention should give assurance that a prepositioned registration does not constitute either a cloud on title or a prospective international interest.

A cloud on title is generally thought to exist when some form of claim against title, valid or invalid, appears of record or is made known to third parties in some other way that affects the ability of the title holder to transfer title free of the claim. Prepositioned registrations do not fit such a description. As described in Section 2(A) of this article, a closing room will not be part of the International Registry data base, and therefore a prepositioned registration will not be “searchable” under the Convention. The only parties who will have knowledge of a prepositioned registration, or the ability to see it, will be the closing room participants. Accordingly, in no sense is a prepositioned registration “of record”. Further, since a prepositioned registration is not a registered interest, its existence will not have any impact on the ability of the holder of title to an

aircraft object to transfer such title free of the prepositioned registration.⁶⁰

A reasonable analogy to a prepositioned registration might be a fully executed instrument, such as an aircraft mortgage, bill of sale or lease, counterparts of which are being held in escrow by the transaction participants in anticipation of a closing at some later time. The only parties who know of the instrument are those who are participants in the transaction. Until such an instrument is released from escrow, and delivered as a binding contract, it does not even create or affect an interest in the aircraft. As with a prepositioned registration, such an instrument would not be regarded as creating a cloud on title to the aircraft.

The analogy between a prepositioned registration and an executed, but undelivered instrument is not precise because once the undelivered instrument is actually delivered it will create or affect a valid interest in the object it pertains to. It may not be considered a cloud on title until it is registered or otherwise made known to third parties in some way that affects the ability of the owner to transfer good title. In contrast, even the release of a prepositioned registration for entry into the International Registry data base will not create or affect an interest in an aircraft object unless the prepositioned registration pertains to an agreement that meets all of the requirements of the Convention to validly constitute an interest in an aircraft object.⁶¹ The entry into the International Registry data base of a prepositioned registration that is not

supported by an agreement meeting the formal requirement for constituting an international interest will result in a cloud on the title of the affected aircraft object, but it will not constitute a “registered interest” because there is no underlying interest tied to the registration.

The distinction between constituting a prepositioned registration (which can be accomplished by assembling all the necessary data and consents in a closing room) and constituting an international interest (which requires an agreement that meets the requirements of the Convention) is important to understanding why a prepositioned registration is conceptually different from a prospective international interest. A prospective international interest is an interest that is intended to be created or provided for with respect to an object at some point in the future upon the happening of an event, all as contemplated by the terms of an agreement. The distinction between a prospective international interest and an international interest is that in the case of the former the agreement contemplates a future event that will bring the interest into existence whereas in the case of the latter the agreement itself brings the interest into existence.⁶² Neither a prospective international interest nor an international interest may be constituted without finding an agreement that meets the requirements of the Convention.⁶³ Thus, while a prepositioned registration in a closing room may relate to a ‘prospective international interest’, the fact that

⁶² Convention, Article 1(y).

⁶³ In the case of an international interest the requirement for a written agreement is explicit. See Convention Article 7. The same requirement may be inferred for a prospective international interest from the definition of that term in Convention Article 1(y), though there is no text in the Convention that directly ties the formalities applicable to constituting an international interest to the constitution of a prospective international interest. Of course, nothing precludes the parties from registering a prospective international interest even though no formal written agreement has been entered into, and in practice, prospective international interests often are registered before a written agreement has been executed and delivered.

⁶⁰ Article 29 of the Convention addresses the priority of interests. A registered interest has priority over an unregistered interest, without regard to the order in which the interests were created, and such priority is not affected by the holder of the registered interest having actual knowledge of the unregistered interest. A buyer and a conditional buyer of an object similarly takes title free from an unregistered interest, notwithstanding actual knowledge that the unregistered interest exists.

⁶¹ Under Article 7 of the Convention, several requirements must be satisfied in order to constitute an international interest, including the existence of an agreement that creates the interest.

the prepositioned registration has been fully assembled in the closing room has no bearing on that characterization.

In sum, a prepositioned registration in a closing room may pertain to rights and interests created under an agreement that has, on its own merits, some legal effect. Alternatively, such prepositioned registration may pertain to no existing rights or interests, prospective or otherwise, because the relevant parties have yet to enter into an agreement. In either case, under the plain terms of the Convention the mere assembly of a prepositioned registrations in a closing room, in and of itself, would not constitute either a cloud on the title to the aircraft object to which it relates or a prospective international interest in that object.

5. Conclusion

After over seven years of operating successfully as a registry system that requires its user community to enter registrations on an object-by-object basis, the International Registry is about to enter a new phase of operations in which the user community will be able to assemble the data for the registrations for an entire transaction in a closing room and release such data for entry into the International Registry data base as a group of registrations in the order desired. The closing room facility will further a principal goal of the International Registry system, that of efficiency, by offering substantial advances in the accuracy and ease of data entry and in the coordination of the required registration activities among the parties to a transaction. The closing room facility will allow registrations to be completed more quickly and more accurately than could be achieved under the prior registry system. In addition, the closing room facility will allow the parties to a transaction a better opportunity to review and confirm that their transaction will be properly reflected on the International Registry.

Annex

Closing Room Regulation

Extract from the Regulations and Procedures of the International Registry (Sixth Edition)

5.18 The International Registry may provide a closing room facility (“closing room”) on its website permitting registry users 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 aircraft 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 receipt of such registrations by the International Registry;
- and in the cases of (b) and (c) above, for the purposes of Articles 18 (4) and 19 of the Convention.

Appendix

Closing Room (Section 5.18 of the Regulations⁶⁴)

1. General

1.1 The International Registry may include a “closing room” facility permitting a registry user entity to create a file that may be used to assemble the information required under these Regulations to effect one or more registrations in advance of completing such registrations. For the purposes of this Appendix, such information is referred to as a “prepositioned registration” or “prepositioned registrations”, and the action to assemble such information is referred to as an action to “preposition a registration” or to “preposition registrations”.

1.2 A closing room is not searchable for the purposes of Articles 18 (4) and 19 of the Convention. A prepositioned registration has no legal effect under the Convention or the Protocol until such time as such prepositioned registration has been entered into the International Registry data base in accordance with paragraph 7.2 of this Appendix. Once a prepositioned registration has been entered into the International Registry data base in accordance with paragraph 7.2, it shall be regarded as “registered” (as such term is defined in Article 1 (bb) of the Convention).

1.3 This Appendix describes the conditions and procedures for establishing a closing room, assembling and managing the information required to preposition registrations in the closing room, consenting to prepositioned registrations and releasing such prepositioned registrations for entry into the International Registry data base so as to become registrations that are searchable and valid under the Convention and the Protocol.

2. Establishing a closing room

2.1 registry user entity may establish a closing room by following the directions on the International Registry website.

2.2 The registry user entity who establishes a closing room, the “coordinating entity”, shall have the responsibilities for the closing room described in this Appendix.

2.3 Each closing room shall have a unique identifier automatically assigned by the International Registry, the “closing room ID”, and registry users may search for a closing room on the International Registry website using the closing room ID.

2.4 The coordinating entity may extinguish a closing room at any time prior to taking the action described in paragraph 7.1.

3. Assembling and managing closing room registrations

3.1 The coordinating entity shall be responsible for assembling and managing all the information required to preposition registrations in the closing room. The registry users of the coordinating entity, and no other persons, will be entitled to enter or modify information in the closing room. References in this Appendix to action by a coordinating entity shall mean action on its behalf by any of its registry users.

3.2 In order to preposition a registration, the coordinating entity must enter all of the information for that category of registration specified in the applicable section of these Regulations. For example, all the information specified in Section 5.3 of these Regulations shall be required to preposition a registration of an international interest. In addition, if any aircraft object is the

⁶⁴ In this Appendix, the term ‘Regulations’ refers to the Sixth Edition of the Regulations.

subject of more than one prepositioned registration, the coordinating entity shall specify the chronological order in which, when released, such prepositioned registrations are to be entered into the International Registry data base.

3.3 After the coordinating entity has completed assembling the information required to effect all of the prepositioned registrations to be included in the closing room, following the directions on the International Registry website, it may suspend the ability to amend or enter further registration information (referred to as designating the closing room as “locked”). The locked status of the closing room will (a) initiate the actions described in paragraph 4.1, and (b) signify that all the information for the prepositioned registrations in the closing room has been assembled and that the closing room is available for each registry user entity whose consent is required under these Regulations to take one of the actions specified in paragraph 4.2.

3.4 A coordinating entity may at any time (whether or not a closing room has been locked) provide any registry user entity and any registry user with “read only” access to such closing room to read, but not modify, the information contained therein by following the directions on the International Registry website for identifying such persons and establishing such access. Once the closing room is locked, each registry user entity whose consent to the registrations prepositioned in the closing room is required under these Regulations, shall automatically have read only access to such closing room. The registry user entities and registry users with access rights to the closing room are referred to as the “closing room participants”.

3.5 A coordinating entity may transfer its rights and responsibilities to another registry user entity as its replacement. Such a transfer shall take effect when the administrator for the transferee registry user entity gives its acceptance in the manner specified on the International Registry website, and shall have the effect specified in paragraphs 5.1 and 5.2.

4. Consenting to prepositioned registrations

4.1 When the coordinating entity designates the status of a closing room as locked, the International Registry shall issue to the closing room participants a notice:

- (a) identifying the coordinating entity;
- (b) providing a link to access the closing room and setting forth the closing room ID;
- (c) stating that the closing room is available for each registry user entity whose consent is required under these Regulations to take the action specified in paragraph 4.2;
- (d) stating the period of time (as provided by paragraph 5.3) that the closing room will remain accessible for the purpose of providing consent or reviewing information; and
- (e) attaching a “pre-registration report” that shows all prepositioned registrations, including the specified chronological order of any multiple registrations for an aircraft object.

4.2 After the notice described in paragraph 4.1 has been issued, each registry user entity whose consent is required under these Regulations may consent or decline to consent to such prepositioned registration by following the directions on the International Registry website.

4.3 A consent to a prepositioned registration may be revoked at any time prior to release of that prepositioned registration for entry into the International Registry data base, as described in paragraph 7.1.

4.4 A registry user entity who has declined to give a consent or has revoked a consent shall be entitled to reverse that action at any time prior to the release of its prepositioned registration for entry into the International Registry data base, as described in paragraph 7.1.

4.5 Revoking an authorization under which a consent to a prepositioned registration was given, including an authorization provided to a professional user, will have the effect of revoking such consent. In order to reverse that action, the registry user entity must either consent to such prepositioned registration, or re-issue its authorization to another registry user entity who then

consents to such prepositioned registration, with such action occurring in each case at any time prior to the release of such prepositioned registration for entry into the International Registry data base, as described in paragraph 7.1.

4.6 As provided in paragraph 7.1, none of the prepositioned registrations in a closing room may be released into the International Registry data base unless all such prepositioned registrations have been consented to by or for each registry user entity whose consent is required by these Regulations, and such consents are in effect at the time that the coordinating entity issues a release instruction (as defined in paragraph 7.1).

5. Making changes to prepositioned registrations

5.1 Although a closing room may not be modified while it is locked (except as provided in paragraph 8), the coordinating entity may make changes to the prepositioned registrations, whether on its initiative or in response to requests by closing room participants, or transfer its responsibility as coordinating entity to another registry user entity, by following the directions on the International Registry website for reinstating the ability to change or enter further information (referred to as designating the closing room as “unlocked”).

5.2 If a closing room is unlocked, all consents to prepositioned registrations will be cancelled automatically, the closing room will revert to the status described in paragraph 3, and the International Registry will issue a notice to all the closing room participants advising that the closing room has been unlocked and that the pre-registration report issued with respect to the closing room has lapsed. The coordinating entity may then change the prepositioned registrations and lock the closing room with such changes in place, at which time the provisions of paragraphs 4.1 to 4.4 shall apply.

5.3 If the prepositioned registrations in a closing room have not been released for entry into the International Registry data base, as described in paragraph 7.1, prior to the expiry of 10 calendar days following the date that the closing room is locked, the closing room shall become unlocked automatically, with the effect described in paragraph 5.2. Notwithstanding the foregoing, the coordinating entity may extend the locked period for a closing room for 10 additional calendar days up to a maximum of 11 times in succession. Notice of any such extension shall be issued to the closing room participants by the International Registry.

6. Payment of fees

6.1 At any time after a closing room has been locked, but prior to the issuance of a release instruction under paragraph 7.1, the coordinating entity shall pay the fees in respect of all prepositioned registrations in the closing room.

6.2 Such payment shall be final if such prepositioned registrations are released for entry into the International Registry data base, as described in paragraph 7.1.

6.3 If such prepositioned registrations are not so released, the coordinating entity shall be entitled to a refund of such fees, less applicable third party payment processing expenses.

7. Entering prepositioned registrations into the International Registry data base

7.1 The coordinating entity may, by following the directions on the International Registry website, issue an instruction to the International Registry, “release instruction”, to enter all the prepositioned registrations in the closing room into the International Registry data base in the chronological order specified in the pre-registration report and make them searchable for the purposes of Articles 18 (4) and 19 of the Convention when all of the following conditions are satisfied:

- (a) the closing room is locked;
- (b) all prepositioned registrations in the closing room have been consented to by or for each registry user entity whose consent is required by these Regulations;
- (c) the fees referred to in paragraph 6.1 have been paid; and
- (d) if applicable, the special procedures and conditions described in paragraph 8 have been completed and satisfied.

7.2 Upon receipt of a release instruction, the International Registry shall cause all the prepositioned registrations in the closing room to be entered into the International Registry data base in the chronological order specified in the pre-registration report and made searchable for the purposes of Articles 18 (4) and 19 of the Convention. When so entered into the International Registry data base, each of the prepositioned registrations and consents thereto shall be a “registration” and a “consent” to such registration, as such terms are defined in these Regulations, and each such registration shall be “registered” for the purposes of the Convention.

7.3 After the prepositioned registrations in the closing room have been entered into the International Registry data base, the closing room shall be extinguished. However, the Registrar shall retain a record of the pre-registration report. Any closing room participant may obtain a copy of the pre-registration report by following the directions on the International Registry website.

7.4 The closing room participants shall report to the Registrar within 72 hours from the issuance of the release instruction any discrepancies between the registrations that have been entered into the International Registry data base and the pre-registration report. Any such discrepancies shall be subject to correction in accordance with Section 5.15 of these Regulations.

8. Special conditions and procedures applicable to entry points

8.1 The foregoing conditions and procedures are modified as set forth in this paragraph 8 with respect to any prepositioned registrations that are subject to Section 12.1 of these Regulations relating to entry points.

8.2 For the purposes of compliance with Sections 12.1 (a) and 12.7 of these Regulations with respect to an authorizing entry point, the coordinating entity may enter the authorization code for any prepositioned registration to which those Sections apply at any time prior to issuing the release instruction, notwithstanding that the closing room has been locked. If any of the prepositioned registrations in a closing room require an authorization code pursuant to such Sections, the required authorization codes must be entered before the release instruction is issued.

8.3 For the purposes of compliance with Sections 12.1 (b), 12.4 and 12.7 with respect to a direct entry point, issuing the release instruction with respect to any prepositioned registration to which those Sections apply shall require the prior authorization of the direct entry point, given in accordance with the directions on the International Registry website. If any prepositioned registration in a closing room must be transmitted to the International Registry by the direct entry point pursuant to such Sections, the required authorization by the direct entry point must be given before the release instruction is issued. The term “registry user entity” shall not, for the purposes of paragraphs 2.1 and 2.2, include a direct entry point.

8.4 The obligation to enter an authorization code, as described in paragraph 8.2, and the obligation to obtain the authorization of a direct entry point, as described in paragraph 8.3, are both subject to Section 12.8 of these Regulations, relating to circumstances in which an authorization code is not obtainable or the use of an entry point is not permitted.