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**DIPLOMATIC CONFERENCE FOR THE ADOPTION OF  
THE DRAFT PROTOCOL TO THE CONVENTION  
ON INTERNATIONAL INTERESTS IN MOBILE  
EQUIPMENT ON MATTERS SPECIFIC TO MINING,  
AGRICULTURAL AND CONSTRUCTION EQUIPMENT  
(THE "MAC PROTOCOL")**

Pretoria, 11-22 November 2019

UNIDROIT 2019  
DCME-MAC – Doc. 18  
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**SUMMARY REPORT  
FOR 11 NOVEMBER 2019**

**FIRST MEETING OF THE PLENUM**

**Item No. 1 on the provisional Agenda: Opening of the Conference**

1. Professor Ignacio Tirado (Secretary-General of UNIDROIT), in his capacity as the Secretary-General and Temporary President of the Diplomatic Conference for the adoption of the draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific Mining, Agricultural and Construction Equipment ("the draft Protocol or the MAC Protocol"), opened the Conference at the offices of the Department of International Relations and Cooperation of the Republic of South Africa (DIRCO) in Pretoria, South Africa at 10:15. He expressed his sincere gratitude to the Government of the Republic of South Africa for hosting the Diplomatic Conference, and invited Mr Kgabo Mahoi (Director General of DIRCO) to give an opening statement.

2. Mr Kgabo Mahoi welcomed all the dignitaries and delegates to the Diplomatic Conference, and expressed his appreciation for the work which had been undertaken by the UNIDROIT Secretariat in bringing the draft Protocol to a stage where it was ready to be adopted by the Diplomatic Conference. He recalled the history of the MAC Protocol, and stressed the importance of the mining, agricultural and construction sectors to States across the world, and especially in Africa. He noted the success of the Convention of International Interests in Mobile Equipment ("the Cape Town Convention"), and its Protocol on Matters Specific to Aircraft Objects ("the Aircraft Protocol"), which had been regarded as among the most successful international commercial law treaties ever negotiated, particularly with regard to the high number of Contracting States which both the treaties had accumulated in a relatively short period of time. He highlighted the importance of the MAC Protocol in achieving the UN 2030 Agenda for Sustainable Development, specifically in relation to Goal 8 (Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all), and Goal 9 (Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation), as well as furthering the objectives of the African Continental Free Trade Agreement which had entered into force on 30 May 2019.

3. The Secretary-General thanked Mr Mahoi for his remarks and reiterated his sincere gratitude to the Government of the Republic of South Africa, through its Department of International Relations and Cooperation for hosting the Diplomatic Conference. He recalled that the

MAC Protocol had been under development since 2005, and had undergone two economic assessments, four sessions of Study Group meetings, two Committee of Governmental Expert meetings, and thousands of hours work on part of the Secretariat, in addition to the involvement of over 4500 companies from the private sector and numerous experts from across the world. He emphasised that the draft Protocol for consideration by the Diplomatic Conference had been refined to the greatest extent possible as a result of the rigorous negotiation process. He recalled the economic benefits of the MAC Protocol, referring to the conclusions of an independent economic assessment according to which, as a result of the adoption of the MAC Protocol, the stock of MAC equipment in developing economies would grow by over 90 billion USD over a period of 10 years. He noted that the global increase in MAC stock would be expected to lead to an increase in the GDP of developing markets of more than 23 billion USD, and of 7 billion in the developed markets. He noted the importance of the mining, agricultural and construction sectors to developing economies, particularly in the African region. He recalled that the Diplomatic Conference, in the context of negotiating the text of the draft Protocol, would particularly address those legal provisions within the draft Protocol which had not been agreed upon during the Governmental Expert Committee meetings. The goal of the Diplomatic Conference would be to lead to the adoption of a treaty which would create the maximum beneficial economic impact for all Contracting States.

**Item No. 2 on the provisional Agenda: adoption of the Agenda by the Conference**

4. The provisional Agenda (DCME-MAC – Doc. 1) was adopted as the Agenda of the Conference.

**Item No. 3 on the Agenda: adoption of the Rules of Procedure by the Conference**

5. The provisional Rules of Procedure of the Conference (DCME-MAC – Doc. 2) were adopted by as the Rules of Procedure of the Conference.

6. One delegation requested a printed copy of the Rules of Procedure of the Conference.

7. Pursuant to Article 5(4) of the Rules of Procedure of the Conference, the Secretary-General noted the appointment of the Secretariat of the Conference, with Mr William Brydie-Watson (Senior Legal Officer at UNIDROIT) serving as Executive Secretary, Ms Anna Veneziano (Deputy Secretary-General at UNIDROIT) and Ms Marina Schneider (Principal Legal Officer at UNIDROIT) serving as Deputy Secretaries, and Mr Hamza Hameed (Legal Consultant at UNIDROIT) serving as Assistant Secretary of the Conference.

**Item No. 4 on the Agenda: election by the Conference of the President and the Vice-Presidents of the Conference**

8. One delegation nominated Ms Sandea de Wet (South Africa) as President of the Conference. The proposal was duly supported by several other delegations and the Conference elected Ms de Wet as President. Ms de Wet expressed her gratitude to the Conference, to UNIDROIT and noted her appreciation to the participants. She commended the work of DIRCO in organising the Conference, and noted that she expected the Diplomatic Conference to successfully adopt the MAC Protocol. She explained that the MAC Protocol dealt with industries which were highly important to economic growth all across the world, and especially in developing and emerging economies.

9. It was agreed that the election by the Conference of the Vice-Presidents should be deferred until the Third Meeting of the Plenum to allow for regional consultations.

**Item No. 5 on the Agenda: establishment by the Conference of the Credentials Committee, the Commission of the Whole, the Final Clauses Committee, the Drafting Committee and other Committees as necessary.**

10. The President, whilst acknowledging the urgency of establishing the Credentials Committee without delay, proposed that its establishment be deferred until the second session of the Plenum to allow for consultations. The President recalled that, as consistent with the Rules of Procedure, the Credentials Committee would be limited to 5 States

11. The President proposed that the establishment of the Drafting Committee and Final Clauses Committee also be deferred until the third meeting of the Plenum to allow for consultations. She explained that the Drafting Committee would often meet during the evenings and that States interested in participating should nominate only one representative.

**Item No. 6 on the Agenda: election by the Conference of the Chair of the Commission of the Whole.**

12. One delegation nominated Mr Dominique D’Allaire (Canada) to serve as Chair of the Commission of the Whole, in light of his previous role as Chair of the two sessions of the Committee of Governmental Experts for the preparation of the draft Protocol, as well as his experience as Chair of the Commission of the Whole at the Diplomatic Conference for the Adoption of the Draft Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock (the “Rail Protocol”). This proposal was supported by several delegations, and the Conference confirmed the appointment of Mr Dominique D’Allaire as the Chair of the Commission of the Whole.

13. The Plenum adjourned at 11:15.

**FIRST MEETING OF THE COMMISSION OF THE WHOLE**

**Item No. 8 on the Agenda: consideration of the draft Protocol.**

14. The Chair opened the first meeting of the Commission of the Whole at 11:55. He expressed his appreciation to the Government of the Republic of South Africa for hosting the Conference, as well as to the UNIDROIT Secretariat for having advanced the draft Protocol to such a level that it was ready for adoption by the Diplomatic Conference.

15. The Chair nominated Sir Roy Goode (United Kingdom) as the Reporter of the Commission of the Whole. Several delegations expressed their appreciation and support towards Sir Roy’s appointment. The Reporter expressed his gratitude to the Conference for his appointment, and congratulated the President and the Chair for their appointments. He noted that the original Cape Town Convention and its Aircraft Protocol had been adopted in South Africa, and he looked forward to a successful Diplomatic Conference to adopt the draft Protocol.

16. It was agreed that the Commission of the Whole should first hold a general exchange of views on the draft Protocol.

17. Several delegations and observers expressed their appreciation to the Government of the Republic of South Africa for hosting the Conference. They congratulated the President and the Chair for their elections, and looked forward to the final negotiations for the adoption of the draft Protocol. They stressed on the importance of the mining, agricultural and construction sectors to economies all across the world, noting the potential usefulness of the Cape Town Convention in reducing the cost of financing for these key industries.

18. Several delegations and observers expressed their support for the draft Protocol, noting the work which has been undertaken over the past 14 years to bring the draft Protocol to the stage of adoption by the Diplomatic Conference.

19. The Secretariat played a short video introducing the MAC Protocol.

20. The Chair adjourned the meeting at 12:45.

## **SECOND MEETING OF THE COMMISSION OF THE WHOLE**

### **Item No. 8 on the Agenda: consideration of the draft Protocol**

21. The Chairman opened the session at 14:40.

22. A Deputy Secretary delivered a presentation to the Commission of the Whole outlining the basic features of the Cape Town Convention System, as well as the history and success of the Cape Town Convention and its Protocols.

23. The Reporter delivered a presentation giving an overview of the MAC Protocol within the Cape Town Convention System. He noted the characteristics of the MAC Protocol which differentiated it from the previous Protocols of the Cape Town Convention, and detailed some of the legal issues which still needed to be finalised prior to the adoption of the draft Protocol.

24. An observer from the World Customs Organization delivered a presentation detailing the Harmonized System as used to define the scope of the draft Protocol in relation to equipment. She outlined the process of the classification of goods into various chapters within the Harmonized System, as well as the process which took place to review and amend the system. The observer informed the Commission of the Whole that the codes within the Harmonized System covered goods which represented over 99% of world trade. One delegation queried whether international organisations participated in the review process. The observer from the World Customs Organisation confirmed that the review process was extensive, and that international organisations played a key role in proposing modifications to the system.

25. The Executive Secretary delivered a presentation explaining the documents of the Diplomatic Conference and the mechanism to access them through the MAC Protocol website.

26. The Chair adjourned the meeting at 16:00.

## **SECOND MEETING OF THE PLENUM**

### **Item No. 5 on the Agenda: establishment by the Conference of the Credentials Committee, the Commission of the Whole, the Final Clauses Committee, the Drafting Committee and other Committees as necessary**

27. Following consultations, the Conference established the Credentials Committee with the following membership: Australia, Brazil, Ivory Coast, Japan, and Spain, with South Africa participating in an advisory observer capacity.

28. The President adjourned the meeting at 16:40.