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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")**

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**INTERIM REPORT BY THE DRAFTING COMMITTEE
TO THE COMMISSION OF THE WHOLE**

(presented by the Chairman of the Drafting Committee)

INTRODUCTION

1. The Drafting Committee established by the Conference met on 18 November 2019 and reviewed the draft MAC Protocol on the basis of the decisions taken by the Commission of the Whole on the basis of the Report of the Committee on Final Clauses on **new** definitions and **new** Articles XXXIII*bis* and XXXIII*ter*.

New definitions

(x) "Contracting State proposal" means a proposal for modification of the Annexes made by at least two Contracting States.

(x) "Depositary proposal" means a notification of the Harmonized System codes in the Annexes affected by an HS revision and proposal of adjustments to the Annexes made by the Depositary pursuant to Article [XXXIII*bis*](2) of this Protocol.

(x) "HS revision" means a revision of the Harmonized System codes as finally adopted by the World Customs Organization [Council] according to its procedures.

(x) "implementation period" means:

- (i) for purposes of Article [XXXIII*bis*], the initial period commencing on the date the Depositary sends a notification to Contracting States under Article [XXXIII*bis*](6) and ending on the date on which adjustments would enter into force as specified in that paragraph; and
- (ii) for purposes of Article [XXXIII*ter*], the period commencing on the date the Depositary sends a notification to Contracting States under Article [XXXIII*ter*](8) and ending on the date on which [RJ1] modifications would enter into force as specified in that paragraph.

(x) “new Contracting State” means a State that becomes a Contracting State after the date the Depositary sends a Depositary proposal to Contracting States or after the date the Depositary sends to Contracting States a notification of a Contracting State proposal, as applicable.

Article XXXIIIbis – Harmonized System Revision-Related adjustments to the Annexes

1. Upon the adoption of an HS revision, the Depositary shall consult the World Customs Organization and Supervisory Authority in relation to any Harmonized System codes listed in the Annexes that might be affected by the revision.

2. Not later than three months after the adoption of an HS revision the Depositary shall send to all Contracting States a notification of the HS revision. The notification shall state whether any Harmonized System codes in the Annexes will be affected by the revision and shall propose adjustments to the Harmonized System codes in the Annexes that are needed to ensure that the Annexes remain aligned with the Harmonized System and that minimise changes to the application of the Protocol to equipment resulting from the HS revision. The notification must specify the date by which objections to the Depositary proposal must be made pursuant to paragraph 3.

3. Each adjustment to the Annexes proposed by the Depositary proposal, if made within the time provided by paragraph 2, is deemed to have been adopted by Contracting States unless within nine months after the adoption of the HS revision the Depositary receives from one-third or more of the Contracting States objections to that proposed adjustment. An objection must specify each adjustment to which it applies and must apply to the entirety of the adjustment.

4. If the Depositary receives objections to a proposed adjustment from one-third or more of the Contracting States within the period specified in paragraph 3, the Depositary shall convene a meeting of Contracting States to consider that adjustment. The Depositary shall endeavour to convene the meeting within three months following the expiration of the period specified in paragraph 3.

5. Contracting States participating at a meeting convened under paragraph 4 shall make every effort to reach agreement by consensus. If no agreement is reached, an adjustment shall only be adopted if it is approved by a two-thirds majority vote of the Contracting States participating and voting at the meeting. Subject to paragraphs 7 and 8, agreements and decisions by the meeting of Contracting States shall be binding on all Contracting States.

6. Following the expiration of the period specified in paragraph 3 or, if applicable, following the conclusion of a meeting of Contracting States pursuant to paragraph 4, the Depositary shall send to all Contracting States a notification that indicates which of the proposed adjustments have been adopted and which have not been adopted. Subject to paragraphs 7 and 8, the adopted adjustments shall enter into force on the later of twelve months from the date the Depositary sends the notification of adopted adjustments to Contracting States and the date of entry into force of the HS revision.

7. During the implementation period a Contracting State may, by notification received by the Depositary not less than thirty days before expiration of the implementation period, extend the date on which adjustments enter into force in relation to that State for a period of six months. A Contracting State may make successive extensions of the entry into force for six-month periods by notification received by the Depositary not less than thirty days before expiration of the current period.

8. During the implementation period or during any subsequent six-month extension period provided by paragraph 7, a Contracting State, by notification received by the Depositary not less than thirty days before expiration of the implementation period or such subsequent period, may identify one or more adjustments to the Harmonized System codes which will not enter into force in relation to that State. A Contracting State that has so notified the Depositary may at any time thereafter withdraw its notification under this paragraph as to one or more adjustments by notification to the Depositary in which case such adjustment or adjustments shall enter into force in relation to that State thirty days after receipt by the Depositary of the notification.

9. A new Contracting State will have all rights and benefits of Contracting States under this Article, including the rights to object under paragraph 3, participate and vote in a meeting under paragraphs 4 and 5, extend dates under paragraph 7, and send notifications under paragraph 8. Notwithstanding the preceding sentence, the expiration of the time for taking any action under this Article that occurs prior to the time a State becomes a Contracting State is binding on that State.

10. Subject to Article 60 of the Convention and Article XXVI of this Protocol, any adjustment to the Annexes under this Article shall not affect rights and interests arising prior to the date the adjustment enters into force.

Article XXXIII^{ter} – Modifications to the Annexes

1. This article applies to modifications of the Annexes other than adjustments to the Harmonized System codes listed in the Annexes governed by Article [XXXIII^{bis}].

2. If at any time after the entry into force of this Protocol the Depositary receives a Contracting State proposal, the Depositary shall, at the time provided in paragraph 3 or paragraph 5, send to all Contracting States a notification of the Contracting State proposal. The notification shall identify the Harmonized System codes, if any, that would be affected by the proposal and describe each proposed modification of the Annexes. The notification must specify the date by which objections to the Contracting State proposal must be made pursuant to paragraph 4 or 5.

3. Subject to paragraph 5, at the time the Depositary sends a Depositary proposal to Contracting States pursuant to Article XXXIII^{bis}(2) it shall send to Contracting States a notification of each Contracting State proposal received by the Depositary and not previously sent to Contracting States.

4. Subject to paragraph 5, each modification of the Annexes proposed by a Contracting State proposal referred to in [the preceding] paragraph [3] is deemed to have been adopted by Contracting States unless within the time specified for objections in Article XXXIII^{bis}(3) the Depositary receives objections to that proposed modification from twenty-five per cent or more of the Contracting States. An objection must specify each modification to which it applies and must apply to the entirety of the modification.

5. In its sole discretion the Depositary may elect to send to Contracting States, at a time other than that specified in paragraph 3, a notification of each Contracting State proposal received by the Depositary and not previously sent to Contracting States. In that case, each modification of the Annexes proposed by the Contracting State proposal or proposals is deemed to have been adopted by Contracting States unless within the time specified in the notification the Depositary receives objections to that proposed modification from twenty-five per cent or more of the Contracting States. The time specified in the notification shall be not less than nine months after the Depositary's receipt of the Contracting State Proposal most recently received by the Depositary. An objection must specify each modification to which it applies and must apply to the entirety of the modification.

6. If the Depository receives objections to a proposed modification from twenty-five per cent or more of the Contracting States within the period specified in paragraph 4 or paragraph 5, the Depository shall convene a meeting of Contracting States to consider that modification. The Depository shall endeavour to convene the meeting within three months following the expiration of the period specified in paragraph 4 or paragraph 5.

7. Contracting States participating at a meeting convened under paragraph 6 shall make every effort to reach agreement by consensus. If no agreement is reached, a modification shall only be adopted if it is approved by a two-thirds majority vote of the Contracting States participating and voting at the meeting. Subject to paragraphs 9 and 10, agreements and decisions by the meeting of Contracting States shall be binding on all Contracting States.

8. Following the expiration of the period specified in paragraph 4 or paragraph 5 or, if applicable, following the conclusion of a meeting of Contracting States pursuant to paragraph 6, the Depository shall send to all Contracting States a notification that indicates which of the proposed modifications have been adopted and which have not been adopted. Subject to paragraphs 9 and 10, the adopted modifications shall enter into force twelve months from the date the Depository sends the notification to Contracting States.

9. During the implementation period a Contracting State may, by notification received by the Depository not less than thirty days before expiration of the implementation period, extend the date on which modifications enter into force in relation to that State for a period of six months. A Contracting State may make successive extensions of the entry into force for six-month periods by notification received by the Depository not less than thirty days before expiration of the current period.

10. During the implementation period or during any subsequent six-month extension period provided by paragraph 9, a Contracting State, by notification received by the Depository not less than thirty days before expiration of the implementation period or such subsequent period, may identify one or more modifications to the Annexes which will not enter into force in relation to that State. A Contracting State that has so notified the Depository may at any time thereafter withdraw its notification under this paragraph as to one or more modifications by sending a notification to the Depository, in which case such modification or modifications shall enter into force in relation to that State thirty days after receipt by the Depository of the notification.

11. A new Contracting State will have all rights and benefits of Contracting States under this Article, including the rights to object under paragraph 4, participate and vote in a meeting under paragraphs 6 and 7, extend dates under paragraph 9, and send notifications under paragraph 10. Notwithstanding the preceding sentence, the expiration of the time for taking any action under this Article that occurs prior to the time a State becomes a Contracting State is binding on that State.