



Council of the
European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the signing, on behalf of the European Union, of the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Mining, Agricultural and Construction Equipment (MAC Protocol)

COUNCIL DECISION (EU) 2022/...

of ...

**on the signing, on behalf of the European Union,
of the Protocol to the Convention on International Interests in Mobile Equipment
on Matters specific to Mining, Agricultural and Construction Equipment
(MAC Protocol)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81(2), points (a), (c) and (e), in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Union is working towards the establishment of a common judicial area based on the principle of mutual recognition of judicial decisions.
- (2) The Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Mining, Agricultural and Construction Equipment ('the MAC Protocol'), adopted in Pretoria on 22 November 2019, makes a useful contribution to the regulation of those matters at international level. It is therefore desirable that the provisions of the MAC Protocol be applied as soon as possible.
- (3) Some of the matters dealt with in the MAC Protocol affect Regulations (EC) No 593/2008¹, (EU) No 1215/2012² and (EU) 2015/848³ of the European Parliament and of the Council. The Union therefore has exclusive competence over those matters, while the other matters do not fall within that competence.
- (4) The Commission negotiated the MAC Protocol on behalf of the Union, for the parts falling within the exclusive competence of the Union.

¹ Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ L 177, 4.7.2008, p. 6).

² Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1).

³ Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (OJ L 141, 5.6.2015, p. 19).

- (5) Article XXIV(1) of the MAC Protocol provides that regional economic integration organisations which have competence over certain matters governed by the MAC Protocol are able to sign, accept, approve or accede to that Protocol.
- (6) Article XXIV(2) of the MAC Protocol provides that, at the time of signature, acceptance, approval or accession, a regional economic integration organisation is to make a declaration specifying the matters governed by that Protocol in respect of which competence has been transferred to that organisation by its Member States. The Union should therefore make such a declaration at the time of signature of the MAC Protocol.
- (7) Ireland is bound by Regulations (EC) No 593/2008, (EU) No 1215/2012 and (EU) 2015/848, and is therefore taking part in the adoption of this Decision.
- (8) In accordance with Articles 1 and 2 of Protocol (No 22) on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (9) The MAC Protocol should be signed on behalf of the Union, subject to its conclusion at a later date, and the attached declaration should be approved,

HAS ADOPTED THIS DECISION:

Article 1

The signing on behalf of the Union of the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Mining, Agricultural and Construction Equipment (MAC Protocol), adopted in Pretoria on 22 November 2019, is hereby authorised, subject to its conclusion¹⁺.

Article 2

The Declaration attached to this Decision shall be approved on behalf of the Union, subject to the adoption of a decision on the conclusion of the MAC Protocol at a later stage.

Article 3

The President of the Council is hereby authorised to designate the person(s) empowered to sign the MAC Protocol on behalf of the Union, subject to the condition set out in Article 4.

Article 4

When signing the MAC Protocol, the Union shall make the declaration attached to this Decision, in accordance with Article XXIV(2) of the MAC Protocol.

¹ The text of the MAC Protocol will be published together with the decision on its conclusion.
⁺ Delegations/OJ: see document st5230/22 ADD1.

Article 5

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at ...,

For the Council

The President

Declaration pursuant to Article XXIV(2) concerning the competence of the European Union over matters governed by the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Mining, Agricultural and Construction Equipment (MAC Protocol), adopted in Pretoria on 22 November 2019, in respect of which the Member States have transferred their competence to the European Union

1. Article XXIV(1) of the MAC Protocol provides that regional economic integration organisations which are constituted by sovereign States and which have competence over certain matters governed by the MAC Protocol may sign it, on condition that they make the declaration referred to in Article XXIV(2). The European Union has decided to sign the MAC Protocol and is hereby making that declaration.
2. The current Members of the European Union are the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Republic of Croatia, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand-Duchy of Luxembourg, Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland and the Kingdom of Sweden.

3. However, this declaration does not apply to the Kingdom of Denmark in accordance with Articles 1 and 2 of Protocol 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union.
4. This declaration is not applicable in the case of the territories of the Member States in which the Treaty on the Functioning of the European Union does not apply and is without prejudice to such acts or positions as may be adopted under the MAC Protocol by the Member States concerned on behalf of and in the interests of those territories.
5. In respect of matters governed by the MAC Protocol, the European Union has exercised its competence by adopting Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters¹ (Article IX of the MAC Protocol – *“Modification of provisions regarding relief pending final determination”*), Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings² (Article X of the MAC Protocol – *“Remedies on Insolvency”* – and Article XI of the MAC Protocol – *“Insolvency assistance”*) and Regulation (EC) No 593/2008 of 17 June 2008 on the law applicable to contractual obligations (Rome I)³ (Article VI of the MAC Protocol – *“Choice of law”*).

¹ OJ L 351, 20.12.2012, p. 1.

² OJ L 141, 5.6.2015, p. 19.

³ OJ L 177, 4.7.2008, p. 6.

6. The competence of the European Union pursuant to the Treaty on European Union and to the Treaty on the Functioning of the European Union is, by its nature, liable to continuous development. In the framework of the Treaties, the competent institutions may take decisions which determine the extent of the competence of the European Union. The latter therefore reserves the right to amend this declaration accordingly, without this constituting a prerequisite for the exercise of its competence with regard to matters governed by the MAC Protocol.
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