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Registration of security rights in movable assets

Draft model regulations

Note by the Secretariat

Addendum

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I. General

Article 1: Definitions

1. For the purposes of these regulations:

(a) “Address” means a street address and number, city, zip code and State and may include a post office box number and an electronic mail address;

(b) “Amendment” means the addition, deletion or change of the information contained in the registry record;

[Note to the Working Group: The Working Group may wish to consider whether examples of amendments should be given in the draft Model Regulations or in the commentary of the draft Registry Guide. The following examples could be mentioned: (a) the extension of the effectiveness of a registration (renewal of a registration); (b) the deletion of a secured creditor where two or more secured creditors are identified in the registered notice; (c) the addition of a secured creditor; (d) the deletion of a grantor when two or more grantors are identified in the registered notice; (e) the addition of a grantor; (f) the deletion of encumbered assets; (g) the modification of the identifier of the grantor; (h) the modification of the identifier of the secured creditor; (i) the assignment of the secured obligation by the secured creditor; (j) the subordination by the secured creditor; (k) the subrogation of a secured creditor’s right; (l) the modification of the address of a grantor or secured creditor; and (m) the modification in the maximum monetary amount for which the security right may be enforced (if applicable).]

(c) “Law” means the law governing security rights in movable assets;

[Note to the Working Group: The Working Group may wish to note that the commentary of the draft Registry Guide will explain that the draft Model Regulations have been prepared against the background of the law recommended in the Guide.]

(d) “Notice” means a communication in writing (paper or electronic) presented to the registry, to effect a registration, or amend or cancel information in the registry record;¹

[Note to the Working Group: The Working Group may wish to note that the Guide uses: (a) the term “notice” in the sense of a communication (for example, a form or screen) used to transmit information to the registry; (b) the term “information contained in a notice” or “the content of the notice” (see rec. 54 (d) and 57); and (c) the term “registry record” in the sense of information in a notice once this information has been accepted by the registry and entered into the database of the registry that is available to the public (see rec. 70). The draft Model Regulations use these terms in the same sense.]

(e) “Password” means a confidential code, including an alphanumerical code, issued by or under the authority of the registry;

(f) “Registrant” means the person who submits a notice to the registry for the purposes of effecting, amending or terminating a registration;

¹ See term “notice” in the introduction, section B, terminology and interpretation of the *Guide*.

(g) “Registration” means the entry of information in a notice into the registry record and includes, where the context permits, the amendment and the cancellation of information in the registry record;

(h) “Registration number” means a unique number allocated to each registration by the registry that is permanently associated with such registration;

(i) “Registry record” means the information entered and stored either electronically in the registry database or manually in paper files of the registry;

[Note to the Working Group: The Working Group may also wish to consider whether the following terms should be defined in the draft Model Regulations or explained in the commentary of the draft Registry Guide along the following lines:

“Official search logic” means the program applied by a registry system to the search criteria provided by the searcher to retrieve information from the registry record. [This term is not referred to in the draft Model Regulations as the registry system applies the official search logic automatically and there is nothing that a searcher can do other than use the correct search criterion.]

“Registry” means all aspects of the registration office, including the personnel, equipment, software and hardware required to process, store and administer information contained in notices.

“Registry services” include registrations, searches, registry documents, such as search certificates and [...].

“Registry system” means the process and procedures (if manual) and software/hardware (if electronic) required to process, store, retrieve and manage the registry record.]

[(j) “Serial number” means:

(i) In the case of a motor vehicle, the vehicle identification number marked or attached to the body frame by the manufacturer;

(ii) In the case of an aircraft frame and an aircraft engine, the current and, if different, intended aircraft nationality and registration marks assigned pursuant to the Convention on International Civil Aviation, 1944, by the relevant authority, as well as the manufacturer’s serial number and model designator; and

(iii) In the case of a trailer, a mobile home, tractor, railway rolling stock, a boat or a boat motor, the serial number marked on or attached to the asset by the manufacturer [and any serial number assigned to an asset by a Government authority]; and

(k) “Serial number assets” means a motor vehicle, a trailer, a mobile home, tractor, an aircraft frame, an aircraft engine, railway rolling stock and a boat and boat motor.]

[Note to the Working Group: The Working Group may wish to consider the question whether the exact meaning of the terms “motor vehicle”, “aircraft frame”, “aircraft engine” and the other types of serial number assets mentioned above should be left to the law of each enacting State or whether indicative definitions should be included here. The Working Group may also wish to consider whether

“serial number” should be defined by reference to the serial number assigned to an asset not only by a manufacturer but also by a Government authority. Definitions (j) and (k) (as well as articles of the draft Model Regulations that refer to them) appear within square brackets as the law recommended in the Guide does not refer to serial number indexing (although the commentary of the Guide does, see chap. IV, paras. 31-36). As serial number indexing is used in a number of States, the Working Group may wish to consider whether it should be referred to only in the commentary of the draft Registry Guide or also in the draft Model Regulations. In addition, the Working Group may wish to identify other matters dealt with in the draft Model Regulations but not in the recommendations of the Guide and consider whether these matters should be addressed in the draft Model Regulations.]

(1) “User identification” means an identification code the registry assigns to a registry user pursuant to these regulations.

2. Subject to paragraph 1, the definitions contained in the law apply also with respect to these regulations.

[Note to the Working Group: The Working Group may wish to note that paragraph 2 is intended to implement the decision of the Working Group at its eighteenth session that the terminology of the Guide should be incorporated in the definitions of the draft Model Regulations (see A/CN.9/714, para. 32 (a)). The Working Group may also wish to note that, while regulations may normally be updated frequently, the exact meaning of the terms “user identification” and “password” may be left to user agreements.]

II. Establishment and operation of a registry

Article 2: Establishment of a registry

[The Ministry of ...] [other entity authorized by law] establishes a registry of security rights in movable assets for the purposes of receiving, storing and making available to the public information relating to security rights in movable assets pursuant to the law and these regulations.

Article 3: Appointment of registrar and deputy registrar

1. [The Ministry of ...] [other entity authorized by law] designates a person as registrar.

2. The [Ministry] [registrar] designates one or more persons as deputy registrar(s).

Article 4: Duties and powers of registrar and deputy registrar

1. The registrar supervises and administers the operation of the registry in accordance with the law and these regulations and has such additional powers and duties specified by [the Ministry of ...] [other entity authorized by law] that are not inconsistent with the law and these regulations.

2. A deputy registrar has the same powers and duties as the registrar, subject to the direction and supervision of the registrar.

3. The registry provides services as set forth in the law and these regulations.

[Note to the Working Group: The Working Group may wish to consider whether paragraph 3 or a separate article should set forth in detail the role of the registry drawing on recommendations 54 (d), 55 (b) and (d), and articles 14 (1), 15 (3) and 17 (2). The advantage of listing the role of the registry in this paragraph or a separate article is clarity and transparency in the regulations as to the role of the registry. The possible disadvantage is that such a list may appear but not be comprehensive or may be limiting where it should not be. An alternative approach might be to retain paragraph 3 and explain the role of the registry in the commentary of the draft Registry Guide. The Working Group may also wish to consider whether the commentary of the draft Registry Guide should refer to the internal organization of the registry.]

Article 5: Public access to the registry services

Any person is entitled to have access to the registry services in accordance with the law and these regulations.

Article 6: Operating hours of the registry

1. Each office of the registry is open to the public during the days and hours specified for that office. Registry office locations and opening hours are published on the registry's website and posted at each office.
2. Electronic access to the registry services is generally available 24 hours a day, 7 days a week.
3. Notwithstanding paragraphs 1 and 2 of this article, the registry may suspend access to registry services in whole or in part for maintenance purposes or when circumstances arise that make it impossible or impractical to provide access. Notification of the suspension of access to the registry services and its duration is published on the registry's website and posted at the offices of the registry.

[Note to the Working Group: The Working Group may wish to note that, in the case of an electronic registry, access to services may be suspended automatically (for example, when the Internet network goes down and electronic searches and registrations become unavailable).]

Article 7: Liability of the registry

Option A

1. The registry is liable for loss or damage suffered by a registry user as a result of an error in the administration or operation of the registration and search system [caused through [negligence] [gross negligence] on the part of the registry].
2. If direct access to registry services by registry users is possible, the liability of the registry is limited to loss or damage suffered by a registry user as a result of system malfunction [caused through [negligence] [gross negligence] on the part of the registry].
3. The maximum total amount recoverable in a single action is [...]. A claim may be submitted only up to [...] after the loss or damage occurred.

Option B

The registry is not liable for loss or damage suffered by a registry user as a result of an error in the administration or operation of the registration and search system[, except if caused through [gross negligence] [malice] on the part of the registry].

[Note to the Working Group: The Working Group may wish to note that article 7 is intended to reflect recommendation 56, which leaves to each enacting State the existence and the extent of the registry's liability. The Working Group may wish to consider whether article 7 should be retained, and if the article is to be retained, whether option A or B or both should be retained. If the Working Group decides to retain option A, it may wish to consider whether any liability of the registry in paragraphs 1 and 2 should be limited to actions or omissions caused through negligence or gross negligence. The Working Group may also wish to consider whether the limitation period in paragraph 3 should parallel the time set forth in the limitations of actions law of the State operating the registry or the period during which the registration information must be retained in the registry record. If the Working Group decides that option A should be retained, it may be supplemented by commentary that will refer that it sets forth an indicative example of a provision on liability that would need to be supplemented by each enacting State in accordance with its law on contractual (if there is a user agreement) or tort liability. If the Working Group decides to retain both option A and B, the commentary of the draft Registry Guide could explain that, in some States, there is no registry liability, while in other States in which there is such liability, the basis of liability is specified in the Law (for example, malfunction of the registry hardware or software). In some States where liability exists, law sets an upper limit on the amount of damages recoverable by a person who suffered loss or damage, as well as a time period upon the expiry of which no claim may be submitted.]

III. Registry services

Article 8: Access to registry services

1. A person that submits a request by an authorized medium of communication (for example, paper or electronic) is entitled to have access to the services in accordance with these regulations and the terms and conditions of use of the registry, if that person has:

(a) Tendered payment for the service requested or has otherwise made arrangements to pay the registry fees prescribed in article 35;

(b) Identified the grantor in a manner that is sufficient to allow indexing, as provided in these regulations; and

(c) Provided any other information required by the law, as provided in these regulations.

2. The registry has to assign a user identification and a password to a person referred to in paragraph 1 of this article, provided that:

(a) Arrangements have been made for the payment of any fees prescribed under these regulations;

- (b) Proof of the identity of that person has been received by the registry; and
- (c) The person executed a user agreement with the registry [or agreed to the terms and conditions of use].

[Note to the Working Group: The Working Group may wish to note that: (a) paragraph 1 is intended to reflect recommendation 54, subparagraph (c); (b) the commentary of the draft Registry Guide will explain that subparagraph 1 (c) refers, for example, to article 10, subparagraph (1) (b) of the draft Model Regulations according to which the information in a notice or search request has to be comprehensible, legible and otherwise comply with the requirements of the draft Model Regulations; and (c) paragraph 2 includes the additional element of a user agreement, as it is widely used in practice and is not inconsistent with recommendation 54, subparagraph (c).]

Article 9: Registration and search requests

1. A person may register the information in a notice without having to provide to the registry proof that:
 - (a) The registrant is the person to whom the registry, according to the user agreement, assigned the user identification and password entered by the registrant; or
 - (b) The registration of the information in the notice is authorized.
2. Registration of information in a notice effected by a person using the assigned user identification and password is conclusively deemed to have been effected by the person to whom the user identification and password have been assigned by the registry.
3. A person may request from the registry a search result in accordance with these regulations and the terms and conditions of use of the registry, without having to give any reasons for the search.

Article 10: Rejection of a registration or search request

1. The registry may reject a registration or search request when a requirement of the law or these regulations has not been complied with and, in particular, when:
 - (a) A notice or search request is not communicated to the registry in one of the authorized media of communication; or
 - (b) The information in the notice or the search request is incomprehensible and illegible or otherwise does not comply with the requirements of these regulations relating to obtaining access to the registry services.
2. A message and grounds for rejection are sent to the registrant or searcher as soon as practicable.

[Note to the Working Group: The Working Group may wish to note: (a) article 10 deals with the question whether the registry may reject a registration (or search) request; and (b) article 16 deals with the question whether the registry may remove from the record information already registered. The Working Group may wish to consider whether these two matters should be dealt with in the same article. The Working Group may also wish to consider whether article 10 should

specify that the registry may reject non-conforming requests submitted in paper form, while an electronic registry will be designed so as to reject automatically non-conforming requests. The Working Group may also wish to note that the commentary of the draft Registry Guide will explain that, in the case of an electronic registry, the reasons for the registration or search not to have gone through will be immediately displayed to the user.]

IV. Registration

Article 11: Date and time of registration

1. The registry assigns a date and time of registration, as well as a registration number, to each registered notice.
2. A registration is effective from the date and time when the information in the notice is entered into the registry records so as to be available to searchers of the registry record.

Article 12: Duration and renewal of the period of effectiveness of registration

Option A

1. A registration is effective for the period of time specified in the law.
2. The period of effectiveness of a registration may be renewed for an additional period of time equal to the initial period specified in the law at any time before the registration expires.

Option B

1. A registration is effective for the period of time indicated in the notice [not exceeding [20] years. When no period of time is indicated in the notice, the registration is effective for [5] years].
2. The period of effectiveness of a registration may be renewed for an additional period of time indicated in the renewal notice at any time before the registration expires.
- [3. [Whether a State enacts option A or B], for purposes of calculating the period of effectiveness of a registration, where the calculation is from the day of registration or from the anniversary of the day of registration, a year runs from the beginning of that day.]

[Note to the Working Group: The Working Group may wish to note that option A is fully in line with recommendation 69, while option B includes within square brackets elements that were discussed in the Guide (see chap. IV, paras. 87-91) but were not included in recommendation 69. As the matter addressed in paragraph 3 may be dealt with differently in the various States, the Working Group may wish consider whether paragraph 3 should be retained or deleted and the matter left to general law with appropriate explanations in the commentary.]

Article 13: Time when a registration may be made

A registration with respect to a security right may be made before or after the security right has been created or the security agreement has been concluded.

Article 14: Registration relating to multiple security rights arising from multiple security agreements

A registration may relate to one or more than one security right, whether they arise from one or more than one security agreement between the same parties.

Article 15: Indexing of registered information

1. Information entered in the registry record is indexed according to the grantor identifier as provided in these regulations.
- [2. Information relating to security rights in serial number assets is indexed according to the serial number of the asset and to the grantor identifier as provided in these regulations.]
3. All amendments and cancellations are indexed in a manner that associates them with the initial registration number.

[Note to the Working Group: The Working Group may also wish to note that the recommendations of the Guide do not refer to serial number as an indexing and search criterion (although the commentary does, see the Guide, chap. IV, paras. 31-36) or require the registry to assign a registration number. In view of the widespread use and importance of serial number indexing (in addition to grantor indexing) in greatly enhancing the reliability and ease of indexing and searching, it appears in paragraph 2 within square brackets for the consideration of the matter by the Working Group. Another matter that was not addressed in the recommendations of the Guide and the Working Group may also wish to consider because of its importance in the efficient operation of a registry is whether notices should also be indexed in a manner that makes them retrievable by entering the secured creditor identifier for the purposes of internal searches of the registry record by the registry staff and of making global amendments (see article 28).]

Article 16: Change, addition or removal of information from the registry record

1. The registry may not change or add any information in the registry record.
2. The registry may remove information from the registry record only:
 - (a) Upon the expiry of the term of the registration; or
 - (b) Upon the registration of a cancellation notice.
3. Information removed from the registry record must be archived for a period of [20] years in a manner that enables the information in them to be retrieved by the registry.

[Note to the Working Group: The Working Group may wish to note that, in some legal systems, the registry may remove information from the record in certain situations, including when the information is frivolous, vexatious, offensive and contrary to the public interest. In those systems, the registry may also restore incorrectly removed information or correct errors made by the registry. The Working

Group may wish to consider this matter and whether it should be addressed in the draft Model Regulations or in the commentary of the draft Registry Guide.]

V. Registration information

Article 17: Responsibility with respect to the information in a notice

1. It is the responsibility of the registrant to ensure that the information in the notice is accurate and complete.
2. The registry does not have to verify the identity of the registrant, the accuracy or legal sufficiency of information in the notice, determine whether a registration has been authorized or conduct further scrutiny of the notice.

Article 18: Information required in a notice

1. To enter information in the registry record, a registrant is required to provide in the appropriate field in a notice the following information:
 - (a) The identifier and address of the grantor, as required in articles 19-21;
 - (b) The identifier and address of the secured creditor or its representative, as required in article 22;
 - (c) A description of the encumbered assets, as required in articles 23-26;
 - (d) The period of time for which the registration is to be effective, as required in article 12²]; and
 - (e) The maximum monetary amount for which the security right may be enforced].³
2. The information in the notice must be expressed in the official language or languages of the enacting State.
3. If there is more than one grantor, the required information must be provided separately for each grantor.
4. For the purposes of articles 19-22, the grantor and the secured creditor identifier is determined as of the time of the registration.

[Note to the Working Group: The Working Group may wish to note that the registry would need to be able to rely on a set of rules for the transliteration of names with foreign characters in the alphabet of the official language(s) of the enacting State. The Working Group may also wish to consider whether it would be sufficient to include in the commentary of the draft Registry Guide wording preserving other naming conventions of the enacting State or whether this wording should be included in the draft Model Regulations.]

² If the Law allows it, see the *Guide*, recommendation 69.

³ If the Law allows it (see recommendation 57 (d)).

Article 19: Grantor information (natural person)

1. For the purposes of article 18, if the grantor is a natural person, the grantor identifier is:

Option A

the personal identification number issued to the grantor by the enacting State.

Option B

the name mentioned in an official document, such as an identification card, driver's licence or passport, issued to the grantor by the enacting State.

Option C

the personal identification number or the name mentioned in an official document issued to the grantor by the enacting State. Where the grantor is not a resident of the enacting State, grantor's identifier is the grantor's family name, followed by the first and second given name, if any, and the grantor's birth date, as provided in an official document issued to the grantor by the enacting State;

2. For the purposes of article 18 and paragraph 1 of this article:

(a) Where the grantor is a natural person whose name includes a first, second and third given name, the grantor identifier is the identifier that includes the grantor's first and second given names; and

(b) Where the grantor is a natural person whose name consists of only one word, the grantor identifier is the identifier that includes the grantor's family name.

3. For the purposes of article 18 and paragraph 1 of this article, the grantor identifier is determined in accordance with the following rules:

(a) If the grantor was born in the enacting State and the grantor's birth is registered in [the enacting State] with a government agency responsible for the registration of births, the grantor identifier is the name as stated in the grantor's birth certificate or equivalent document issued by the government agency;

(b) If the grantor was born in the enacting State but the grantor's birth is not registered in [the enacting State], the grantor identifier is the name as stated in a current passport issued to the grantor by the enacting State;

(c) If the grantor does not have a current passport issued by the enacting State, the grantor identifier is the name stated in an official document, such as an identification card or driver's licence, issued to the grantor by the enacting State;

(d) If the grantor was not born in [the enacting State], but is a citizen of [the enacting State], the grantor identifier is the name as stated in the grantor's certificate of citizenship;

(e) If the grantor was not born in and is not a citizen of [the enacting State], the grantor identifier is the name as stated in a current passport issued by the State of which the grantor is a citizen;

(f) If the grantor does not have a current passport, the grantor identifier is the name as stated in the birth certificate or equivalent document issued to the

grantor by the government agency responsible for the registration of births at the place where the grantor was born;

(g) In a case not falling within subparagraphs (a) to (f) of this paragraph, the grantor identifier is the name as stated in any two official documents, such as an identification card, driver's licence or passport, issued to the grantor by the enacting State.

4. If the grantor is a natural person, the address of the grantor is the address [entered by the registrant in the notice] [mentioned in the security agreement] [mentioned in an official document, such as identification card, driver's licence or passport] at the time of registration.

[Note to the Working Group The Working Group may wish to note that: (a) under option C in paragraph 1, the registry should have both numerical and name indexes and searchers should be able to search with one or the other indexing criterion; and (b) paragraph 4 has been inserted for the Working Group to consider the matter of the address of the grantor; and (c) the address of the grantor and secured creditor or its representative has to be part of the record, but not necessarily part of the identifier, except if there is a need for additional information to identify the secured creditor, its representative or the grantor.]

Article 20: Grantor information (legal person)

1. For the purposes of article 18, if the grantor is a legal person, the grantor identifier is:

Option A

The registration number assigned to the grantor by the enacting State pursuant to the law on [...].

Option B

The name of the legal person entity, as it appears on the public record.

Option C

(a) The registration number assigned to the legal person by [the enacting State] [the State under whose authority the relevant registry is organized] pursuant to the law on [...]; or

(b) The name of the legal person entity, exactly as it appears on the public record,

Option A

including the abbreviation which is indicative of type of body corporate or entity, such as "Ltd", "Inc", "Incorp", "Corp", "Co," as the case may be, or "Limited", "Incorporated", "Corporation", "Company";

Option B

without the abbreviation which is indicative of type of body corporate or entity, such as “Ltd”, “Inc”, “Incorp”, “Corp”, “Co,” as the case may be, or “Limited”, “Incorporated”, “Corporation”, “Company”.

2. If the grantor is a legal person, the address of the grantor is the address [entered by the registrant in the registered notice] [mentioned in the security agreement] [as it appears on the public record] at the time of registration.

Article 21: Grantor information (other)

1. For the purposes of article 18:

(a) If the grantor is the estate of a deceased person, the grantor identifier is the name of the deceased person in accordance with article 19, with the specification in a separate field that the grantor is an estate;

(b) If the grantor is a trade union that is not a legal person, the grantor identifier is the name of the trade union mentioned in the document that constituted the trade union and the name of each person representing the trade union in the transaction giving rise to the registration, in accordance with article 19;

(c) If the grantor is a trust, and the document creating the trust designates the name of the trust, the grantor identifier is the name of the trust and trustee in accordance with article 19, with the specification in a separate field that the grantor is a “trustee”;

(d) If the grantor is a trustee acting for a trust, and the document creating the trust does not designate the name of the trust, the grantor identifier is the [identification number] [name] of the trustee in accordance with the provisions for entering the name of a grantor who is a natural person, with the specification in a separate field that the grantor is a trustee;

(e) If the grantor is an insolvency representative acting for a natural person, the grantor identifier is the name of the insolvent person in accordance with article 19, with the specification in a separate field that the grantor is insolvent;

(f) If the grantor is an insolvency representative acting for a legal person, the grantor identifier is the name of the insolvent legal person in accordance with article 20, with the specification in a separate field that the grantor is insolvent;

(g) If the grantor is a participant in a syndicate or joint venture, the grantor identifier is the name of the syndicate or joint venture as stated in the document creating it and the name of each participant in accordance with article 19 or 20, as the case may be;

(h) If the grantor is a participant in an entity other than one already referred to in the preceding rules, the grantor identifier is the name of the entity as stated in the document creating it, the names of each natural person representing the entity in the transaction to which the registration relates in accordance with article 19.

2. For the purposes of this article, a representative (other than an insolvency representative) is a natural person who has power to bind the legal person or its officers or members and who has exercised that power in relation to the transaction to which the registration relates.

3. The address of the grantor of the kind addressed in this article is the address [entered by the registrant in the registered notice] [mentioned in the security agreement] [mentioned in an official document, such as identification card, driver's licence or passport] at the time of registration.

Article 22: Secured creditor information

1. For the purposes of article 18:

(a) If the secured creditor is a natural person, the secured creditor identifier is the name of the secured creditor in accordance with article 19;

(b) If the secured creditor is a legal person, the secured creditor identifier is the name of the secured creditor in accordance with article 20; and

(c) If the secured creditor is a person or entity described in article 21, the secured creditor identifier is the name of the person or entity in accordance with article 21.

2. If the registrant enters, instead of the identifier and address of the secured creditor, the identifier and address of a representative of the secured creditor to whom inquiries relating to the registration may be addressed, paragraph 1 of this article applies to the identifier of the representative of the secured creditor.

3. If the secured creditor is a natural person, the address of the secured creditor is the address [entered by the registrant in the registered notice] [mentioned in the security agreement] [mentioned in an official document, such as identification card, driver's licence or passport] at the time of registration. If the secured creditor is a legal person, the address of the secured creditor is the address [entered by the registrant in the registered notice] [mentioned in the security agreement] [as it appears on the public record].

Article 23: Description of encumbered assets

1. For the purposes of article 18, the description of the encumbered assets in the notice may be specific or generic as long as it reasonably allows the assets to be identified. This rule applies also to proceeds.

2. Unless otherwise provided in the Law, a generic description that refers to all assets within a generic category of movable assets or to all of the grantor's movable assets includes assets within the specified category to which the grantor acquires rights at any time during the period of effectiveness of the registration.

3. Additional information may be provided in the form of an attachment to better identify the assets and their location or if additional space is needed.

[Article 24: Description of encumbered serial number assets

For the purposes of article 18, if the encumbered assets are serial number assets other than those held by the grantor as inventory, the description of the serial number assets in the notice is sufficient if it is in accordance with article 23 and, in addition, the serial numbers of the assets are set forth in the notice.]

[Note to the Working Group: The Working Group may wish to consider whether this article should be retained. If the Working Group decides that this

article should be retained, it may wish to note that enacting States that decide to institute serial number asset indexing and searching will need to consider the type of asset to which this feature should apply and what alphanumeric identification criteria should be specified for each category of asset. The enacting State will also need to take into account its existing registry regimes for registering property rights in certain of these categories of asset, as well as international regimes, notably the registries for aircraft frames, aircraft engines and railway rolling stock established under the Cape Town Convention on International Interests in Mobile Equipment. With regard to subparagraph (b) of this provision and the definition of the term “serial number”, the Working Group may wish to note that parties other than the manufacturer may provide or issue the serial number (for example, a Government authority).]

Article 25: Description of encumbered attachments to immovable property

1. For the purposes of article 18, if the encumbered assets are tangible assets that are or will become attachments to immovable property, the description of the assets in the notice is sufficient if it is in accordance with article 23 and, in addition, includes a description of the relevant immovable property, to which the attachments are or will be attached, [sufficient under the registry rules for the immovable property of the enacting State] [by reference to the parcel identifier number in the records of the immovable property registry of the enacting State].

2. A registrant may register a notice of a security right in attachments to immovable property in the appropriate immovable property registry office of the enacting State by submitting a notice to that office setting out:

(a) The identifiers of the grantor and secured creditor in accordance with articles 19-22;

(b) A description of the tangible assets in accordance with article 23;

(c) A description of the immovable property, to which the tangible assets are or will be attached, [sufficient for indexing under the registry rules for the immovable property of the enacting State] [by reference to the parcel identifier number in the records of the immovable property registry of the enacting State];

(d) The identifier of the owner of the immovable property as it appears in the records of the immovable property registry, if different from the identifier of the grantor;

[(e) A statement specifying, in multiples of whole years, the period of time during which the registration of the notice is to be effective;⁴ and

(f) A statement of the maximum monetary amount for which the security right may be enforced].⁵

[Note to the Working Group: The Working Group may wish to consider whether the additional description of the immovable property required in paragraph 1 should be required in any case or only when the notice is to be registered in the immovable property record (see paragraph 2). The Working Group

⁴ If the law on registration of encumbrances in immovable property allows it.

⁵ If the Law allows it (see recommendation 57 (d)).

may also wish to note that, while this article does not refer explicitly to crops or similar types of asset, it may apply to crops or similar types of asset if a State treats them as attachments to immovable property.]

Article 26: Impact of omissions and errors on the effectiveness of registration

1. A registration is effective only if it provides the grantor's correct identifier as set forth in articles 19-21 or, in the case of an incorrect statement, if the information in a notice would be retrieved by a search of the registry record using the correct grantor identifier.

[2. A registration covering a serial number asset is effective only if it provides the correct serial number as set forth in article 24 or, in the case of an incorrect statement, if the information in the notice would be retrieved by a search of the registry record using the correct serial number. An ineffective registration is ineffective only with respect to the incorrectly identified serial number asset and this ineffectiveness does not affect the effectiveness of the registered notice with respect to any other assets described in the same notice.]

3. Except as provided in paragraphs 1 [and 2] of this article, an incorrect or insufficient statement of the information required to be entered in the registry record under these regulations, or in the manner of its entry, does not render registration ineffective, unless it seriously misleads a reasonable searcher.

[Note to the Working Group: The Working Group may wish to note that the commentary of the draft Registry Guide will give examples of seriously misleading defects, omissions or errors.]

Article 27: Amendment of registration

1. To amend the information provided in a registered notice, a registrant is required to provide in a subsequent amendment notice the following information:

- (a) The field in which the information to be amended is recorded;
- (b) The initial registration number of the registered notice to which the amendment relates;
- (c) The purpose of the amendment (for example, to add, change or delete information in the registry record, record an assignment, or renew the period of effectiveness of a registered notice);
- (d) If information is to be added, the additional information in the manner provided by these regulations for entering information of that kind;
- (e) If information is to be changed or deleted, the information to be changed or deleted, and in the case of a change, also the new information in the manner provided by these regulations for entering information of that kind; and
- (f) The identifier of the secured creditor authorizing the amendment.

2. If the purpose of an amendment is to disclose a transfer of the encumbered assets to which the notice relates, the registrant has to identify the transferee as a grantor in accordance with articles 19-21.

3. If the transfer relates to only part of the encumbered assets described in the notice, the registrant has to identify the transferee as a grantor in accordance with articles 19-21 and describe the part of the encumbered assets transferred has to be described in accordance with article 23.
4. If the purpose of the amendment is to disclose a subordination of the security right to which the registered notice relates, the registrant has to describe the nature and extent of the subordination and identify the beneficiary of the subordination in the fields designated for entering such information.
5. If the purpose of the amendment is to disclose an assignment of the secured obligation, the registrant has to provide the identifier of the assignor and assignee.
6. Amendments that purport to delete all grantors and fail to provide the identifier of a new grantor, delete all secured creditors and fail to provide the identifier of a new secured creditor or delete all encumbered assets and fail to provide a description of the encumbered assets to be added to the registration are ineffective.
7. Subject to article 31, a registrant may register an amendment at any time. The registration of an amendment, other than a renewal, does not extend the period of effectiveness of the registration.
8. An amendment is effective from the date and time when the information in a notice is entered into the registry records so as to be available to searchers of the registry record.

[Note to the Working Group: The Working Group may wish to note that the commentary will explain that an amendment changing the identifier of a grantor will be indexed by adding the new identifier as if it were a new grantor. A search under either the grantor's old identifier or the grantor's new identifier will reveal the registration. The Working Group may also wish to consider whether there should be a mechanism to identify different versions of a registration. For example, an initial registration may be given the number 12345-01, the first amendment 12345-02, the third amendment 12345-03 and so on. The Working Group may also wish to consider whether in the case of a transfer of the encumbered asset (see para. 3), the transferee should be identified as the new grantor replacing the existing grantor or whether both the identifiers of both the transferor and the transferee should be retained in the publicly available registry record. In the former case, the reliability of the registry would be enhanced and the search results would be simplified, but a search against the identifier of the transferor would not disclose the information in initially registered notice. In the latter case, the information on record would be more complete but not fully reliable or simple.]

[Article 28: Global amendment of secured creditor information

A secured creditor identified in multiple notices registered may:

- (a) Amend the secured creditor information in all such notices, as provided in article 27; or
- (b) Request the registry to amend the secured creditor information in all such registrations.]

[Note to the Working Group: The Working Group may wish to note that article 28 appears within square brackets pending determination by the Working Group of whether there should be a secured creditor index for internal searches by the registry staff (see note to article 15).]

Article 29: Cancellation of registration

1. To cancel a registration, a registrant is required to provide in the cancellation notice the following information:
 - (a) The registrant's user identification and password;
 - (b) The registration number of the initial registered notice to which the cancellation notice relates; and
 - (c) The grantor identifier mentioned in the initial registration.
2. When a registration is cancelled, the relevant information is retained in the registry record with a specification that the registration is cancelled and is removed from the registry record only past its expiration date.
3. Subject to article 31, a registrant may cancel a registration at any time.

[Note to the Working Group: The Working Group may wish to consider whether the grantor identifier is necessary for a registrant that has obtained access to the registry (with his/her user identification and password, that may apply in an electronic or paper context), and has the relevant registration number.]

Article 30: Copy of registration, amendment or cancellation notice

1. When a registration is effected, amended or cancelled electronically, a registrant receives a printed or electronic copy as soon as the information in the notice is entered into the registry record.
2. Where a registration is effected, amended or cancelled otherwise than electronically, the registry is obligated to send promptly a copy to the person identified in the notice as the secured creditor at the address(es) set forth in the relevant registration, amendment or cancellation notice.
3. The copy of the registration, amendment or cancellation notice [which may be in printed or electronic form and] contains the following information:
 - (a) The secured creditor identifier;
 - (b) The grantor identifier;
 - (c) The description of the encumbered assets;
 - (d) The date and time when the initial registration was effected, amended or cancelled, as the case may be; and
 - (e) The registration number of the initial registration.
4. The registrant has to send to each person identified as a grantor in a registration, within [thirty days after the registration is effected], [a printed or electronic] copy of the registration, amendment or cancellation notice, except where that person has waived in writing the right to receive it.

[Note to the Working Group: The Working Group may wish to note that paragraph 2 is more in line with recommendation 55, subparagraph (d), than paragraph (1). However, this distinction between paper and electronic registration may be more in line with actual practice. The Working Group may also wish to consider whether, if the amendment notice gives an address that is different from the address stated in the initial registration notice, the copy should be sent to both the old and the new address. Sending the copy to both addresses enhances the possibility that the secured creditor will receive it and check the accuracy of the information in the amendment notice (but in a paper environment adds to cost). The Working Group may wish to note that, with respect to the waiver of rights addressed in paragraph 3 of this article, under recommendation 10 of the Guide, party autonomy applies except where otherwise provided. The relevant recommendation 55, subparagraph (c), is not among those recommendations that are not subject to party autonomy, but provides that failure of the secured creditor to meet this obligation may result in penalties and damages. The Working Group may wish to consider that a waiver of this right of the grantor should not be permitted as sending copies of registered notices to grantors is a fundamental feature of the notice-filing system and an important protection for the grantor]

VI. Obligations of the secured creditor

Article 31: Compulsory amendment or cancellation of notice

1. The person identified in the registered notice as the secured creditor is obliged to submit to the registry an amendment or cancellation notice, to the extent appropriate, not later than [15] days after the secured creditor's receipt of a written demand by the person identified in the registered notice as the grantor if:

(a) No security agreement has been concluded between the person identified as the secured creditor and the person identified as the grantor;

(b) The security right to which the registration relates has been extinguished by payment or otherwise; or

(c) The registration has not been authorized by the grantor.

2. No fee or expense will be charged or accepted for compliance.

3. If the person identified in the registered notice as the secured creditor does not comply in a timely manner, the person making the demand is entitled to seek a cancellation or amendment through a summary judicial or administrative procedure.

4. The person identified in the registered notice as the grantor is entitled to seek a cancellation or amendment through a summary judicial or administrative procedure even before expiry of the period provided in paragraph 1, provided that there are appropriate mechanisms to protect the secured creditor.

5. Upon delivery of a judicial or administrative order ordering cancellation or amendment, the registry has to cancel or amend the registered notice.

[Note to the Working Group: The Working Group may wish to note that: (a) article 31 has been revised to be more consistent with recommendation 72; and (b) under recommendation 72, subparagraph (b), the grantor bears the burden of

proving that the registration must be amended or cancelled. The Working Group may also wish to consider whether the commentary of the draft Registry Guide should refer to a different approach taken in some legal systems. Under this approach, the registered notice is cancelled automatically if the secured creditor fails to respond to the demand in a timely manner. This approach reduces the workload of the registry staff and encourages the secured creditor to respond to amendment and cancellations demands in a timely manner. In view of the fact that secured creditors are sophisticated parties, it is considered that the risk that they will miss an amendment or cancellation demand and the registration will be inadvertently cancelled is insignificant.]

Article 32: Grantor's right to demand additional information

1. The person identified in a registered notice as the grantor may demand in writing that the person identified in the registered notice as the secured creditor:

(a) Confirm in writing whether or not there exists a security agreement between the grantor and the secured creditor as of the date of the demand;

(b) Approve or provide a list of the encumbered assets as of the date of the demand; and

(c) Approve or provide a statement indicating the amount of the obligation secured by the security right to which the registration relates as of the date of the demand.

2. If the person identified in the registered notice as the secured creditor is no longer the secured creditor, it has to provide to the person identified in a registered notice as the grantor the identifier and address of any assignee or successor, as long as this information is known to the secured creditor.

3. The person making the demand may instruct that the person identified in the registered notice as the secured creditor to deliver its response to a designated third person.

4. The registrant has [15] days after receipt of the demand to comply with it. No fee or expense will be charged or accepted for compliance.

[Note to the Working Group: The Working Group may wish to note that the recommendations of the Guide do not deal with this matter and may wish to consider whether it should be retained. If this article is retained, the Working Group may also wish to consider whether: (a) the grantor should be entitled to a limited number of responses free of charge within a specified period of time; and (b) the grantor should be entitled to damages or other remedy through a summary judicial or administrative procedure.]

VII. Searches

Article 33: Search criteria

A searcher of the registry record may request a search by using one of the following search criteria:

(a) The grantor identifier;

- [(b) The serial number of a serial number asset;] or
- (c) The initial registration number.

Article 34: Search results

1. A search result obtained either indicates that no information was retrieved against the specified search criterion or sets forth all information that exist in the registry record at the date and time when the search was performed
2. Upon request made by a registry user who has tendered or arranged for payment of any fees, the registry issues a [paper] [electronic] search certificate on the basis of one of the criteria referred to in article 33. The certificate reflects the search result.
3. A search certificate is admissible as evidence in a court or tribunal and is, in the absence of evidence to the contrary, conclusive evidence of the matters certified therein.

[Note to the Working Group: The Working Group may wish to note that the commentary of the draft Registry Guide will explain that the concept in paragraph 1 applies primarily to a paper system, while an electronic system would present links to the complete registration as it was entered in the registry record.]

VIII. Fees**Article 35: Fees for registry services****Option A**

1. [Subject to paragraph 2 of this article,] the following fees are payable for registry services:
 - (a) Registrations:
 - (i) Paper-based [...];
 - (ii) Electronic [...]
 - (b) Searches:
 - (i) Paper-based [...];
 - (ii) Electronic [...];
 - (c) Certificates:
 - (i) Paper-based [...];
 - (ii) Electronic.
- [2. If the registry is operated by the State, electronic registry services are available without a fee.]
3. The registry may, at its own initiative or at the request of a person, enter into an agreement with that person establishing an account with the registry to enable fees to be charged and paid.

Option B

The Minister of [...] may determine the fees and methods of payment for the purposes of these Regulations by decree.

Option C

The registry services are free of charge.

[Note to the Working Group: The Working Group may wish to note that, under recommendation 54, subparagraph (i), of the Guide, registry services may or may not be subject to a fee and that, if there is a fee, it should be aimed at cost recovery rather than profit level. The Working Group may wish to consider whether one or more of the options set forth above should be retained. In that regard, the Working Group may wish to take into account that registry services are commercial services that should not be paid by the State (that is, the taxpayers). The Working Group may also wish to note that, while regulations are normally easy to revise, in some States, a decree may be a more practical way to set registry fees. If the Working Group adopts or retains option A as a possibility, it may also wish to consider whether fees should depend on the duration of registration to more readily reflect the cost of storing the relevant information. The commentary of the draft Registry Guide may explain that article 35 is intended to set forth some possible examples and that States may wish to enact different regulations for the payment of registry fees.]