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**Draft Technical Legislative Guide on the Implementation of
 a Security Rights Registry Guide: Annex I. Terminology and
 recommendations**

Note by the Secretariat

Addendum

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Annex I

Terminology and recommendations

Terminology*

(a) “Address” means: (i) a physical address, including a street address and number, city, postal code and State; (ii) a post office box number, city, postal code and State; (iii) an electronic address; or (iv) an address that is equivalent to (i), (ii) or (iii);

(b) “Amendment” means the act of adding, deleting or modifying information contained in a registered notice, [by the one and only registrant or, if there is more than one registrant, some of them,] as well as the result thereof;

(c) “Cancellation” means the act of deleting all information contained in a registered notice [by the one and only registrant or, if there is more than one registrant, all of them];

(d) “Grantor” means the person identified in the notice as the grantor;

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

(f) “Notice” means a communication in writing (paper or electronic) and includes an initial notice, an amendment notice or a cancellation notice;¹

(g) “Registrant” means the person identified in the notice as the secured creditor;

(h) “Registrar” means the person designated pursuant to the law and the regulation to supervise and administer the operation of the registry;

(i) “Registration” means the entry of information contained in a notice into the registry database;

(j) “Registration number” means a unique number allocated to an initial registered notice by the registry and permanently associated with that notice [and any related subsequent notice];

(k) “Registry record” means the information in all registered notices that is stored electronically in the registry database and includes the record that is publically available and the archives;

(l) “Regulation” is the body of rules implementing the provisions of the law with regard to the registry.

* Section B of the Introduction to the *Secured Transactions Guide* on terminology and interpretation applies also to the draft Registry Guide, supplemented by the terminology and interpretation section of the Introduction to the draft Registry Guide.

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

Recommendations

I. Registry and registrar

Recommendation 1: The registry

The regulation should provide that the registry is established for the purposes of receiving, storing and making accessible to the public information relating to security rights in movable assets.

Recommendation 2: Appointment of the registrar

The regulation should provide that [the entity or person identified by the enacting State or authorized by the law of the enacting State] designates the registrar, determines the registrar's duties and monitors the registrar's performance.

Recommendation 3: Functions of the registry

The regulation should provide that the functions of the registry include:

(a) Providing access to the registry services according to recommendations 4, 6, 7 and 8;

(b) Publicizing the means of access to, and the opening days and hours of, the registry according to recommendation 5;

(c) Providing the grounds for rejection of a registration or a search request according to recommendation 9;

(d) Entering the information contained in a notice into the registry database, assigning a registration number to the initial notice and recording the date and time of each registration, according to recommendation 10;

(e) Indexing or otherwise organizing the information in the registry record so as to make it searchable according to recommendation 14;

(f) Providing registrants with a copy of the registered notice according to recommendation 16;

(g) Entering the information contained in an amendment notice into the registry database according to recommendation 17;

(h) Removing the information contained in a registered notice from the [publicly available registry record] upon expiry of its period of effectiveness or registration of a cancellation notice according to recommendation 18; and

(i) Archiving information removed from the publicly available registry record according to recommendation 19.

[Note to the Working Group: The Working Group may wish to consider whether the cross-references to the relevant recommendations are necessary in recommendation 3. On the one hand, such cross-references may be useful for the reader. On the other hand, the purpose of recommendation 3 may not be to serve as a list of the contents of the regulation but as a summary of the registry's functions, which case the cross-references may not be necessary.]

II. Access to the registry services

Recommendation 4: Public access to the registry services

The regulation should provide that any person is entitled to have access to the services provided by the registry.

Recommendation 5: Operating days and hours of the registry

The regulation should provide that:

(a) If access to the services of the registry is provided through a physical office:

(i) Each office of the registry must be open to the public during the days and hours [to be specified by the enacting State]; and

(ii) Information about registry office locations and their respective opening days and hours must be widely publicized on the registry's website, if any, or otherwise, and the opening days and hours of each office should be posted at that office;

(b) If access to the services of the registry is provided through electronic means of communication, access to the services provided by the registry must be available at all times; and

(c) Notwithstanding subparagraphs (a) and (b) of this recommendation:

(i) The registry may suspend access to the services provided by the registry in whole or in part; and

(ii) Notification of the suspension and its expected duration must be published in advance when feasible and otherwise as soon as reasonably possible on the registry's website, if any, or otherwise, and, if the registry provides access to its services through physical offices, the notification must be posted at each office.

Recommendation 6: Access to registration services

The regulation should provide that any person is entitled to register a notice if that person:

(a) Uses the form of a notice prescribed by the registry;

(b) Provides its identity in the manner prescribed by the registry; and

(c) Has paid, or made arrangements to pay, any fee prescribed by the registry.

Recommendation 7: Access to searching services

The regulation should provide that any person is entitled to search the publicly available registry record, if that person uses the form prescribed by the registry for a search and has paid, or made arrangements to pay any fee prescribed by the registry.

Recommendation 8: Verification of identity, evidence of authorization or scrutiny of the contents of the notice not required

The regulation should provide that:

(a) The registry requires and maintains the identity of the registrant but does not require verification of the registrant's identity;

(b) The registry does not require evidence of the existence of authorization for registration of a notice; and

(c) The registry does not conduct other scrutiny of the content of the notice. In particular, it is not the responsibility of the registry to ensure that the information in a notice is entered in the designated field and is complete, accurate and legally sufficient.

[Note to the Working Group: The Working Group may wish to note that, as a drafting matter, the former recommendation 19 (A/CN.9/WG.VI/WP.50/Add.1) has been merged with recommendation 8 as these recommendations seem to be dealing with the same issue. The Working Group may wish to consider whether the new recommendation 8 should be retained as is. The Working Group may also wish to consider whether the second sentence of subparagraph (c) ("In particular ... sufficient") should be retained in subparagraph (c) of this recommendation or moved to the commentary.]

Recommendation 9: Rejection of a registration or search request

The regulation should provide that:

(a) The registration of a notice may be rejected if the notice fails to provide, in a legible manner, the information required by recommendation 21, in the case of an initial notice, recommendation 28, in the case of an amendment notice, or recommendation 30, in the case of a cancellation notice;

(b) A search request may be rejected if it fails to provide in a legible manner a search criterion required by recommendation 32; and

(c) The registry must provide the grounds for the rejection of a notice or search request immediately or as soon as practicable.

III. Registration

Recommendation 10: Time of effectiveness of registered notice

The regulation should provide that:

(a) The registration of a notice is effective from the date and time when the information in the notice is entered into the registry database so as to be available to searchers of the publicly available registry record;

(b) The registry maintains a record of the date and time when each notice is entered into the registry database so as to be available to searchers of the publicly available registry record, and assigns a registration number to an initial notice, by which the initial notice and any subsequent notices are identified; and

(c) The registry enters into the registry database and indexes or otherwise organizes information in a registered notice so as to make it available to searchers of the publicly available registry record immediately or within [a short period of time to be specified by the enacting State] and in the order it was received.

Recommendation 11: Period of effectiveness of registered notice

The regulation should provide that:

Option A

(a) A registration is effective for [enacting State to insert the period of time specified in its law].

(b) The period of effectiveness of a registration may be extended for an additional period of time equal to the initial period specified in the law at any time before it expires. The new period starts when the current period expires.

Option B

(a) A registration is effective for the period of time indicated in the initial notice.

(b) The period of effectiveness of a registration may be extended or reduced for the period of time indicated in an amendment notice at any time before it expires. In the case of an extension, the new period starts when the current period expires.

Option C

(a) A registration is effective for the period of time indicated in the initial notice, not exceeding [a long period of time, such as, for example, twenty years, to be specified by the enacting State].

(b) The period of effectiveness of a registration may be extended or reduced for the period of time indicated in an amendment notice not exceeding [a long period of time, such as, for example, twenty years, to be specified by the enacting State] at any time before the period of effectiveness of the registration expires. In the case of an extension, the new period starts when the current period expires.

Recommendation 12: Time when a notice may be registered

The regulation should provide that a notice may be registered before or after the creation of the security right or the conclusion of the security agreement.

Recommendation 13: Sufficiency of a single notice

The regulation should provide that a registration of a single notice is sufficient to achieve third-party effectiveness of one or more than one security right in the asset described in the notice, whether they exist at the time of registration or are created thereafter, and whether they arise from one or more than one security agreement between the same parties.

Recommendation 14: Indexing or other organization of information in the registry record

The regulation should provide that:

(a) The registry indexes or otherwise organizes information in an initial notice in the publicly available registry record so as to make it searchable according to the grantor identifier;

(b) The registry indexes or otherwise organizes information in an amendment notice in the publicly available registry record so as to make it searchable together with the initial notice; and

(c) The registry indexes or otherwise organizes information in a cancellation notice in the registry archives so as to make it retrievable according to recommendation 19 together with the initial notice as amended.

Recommendation 15: Integrity of the registry record

The regulation should provide that, except as provided in recommendations 17 and 18, the registry does not amend information in or remove information from the registry record.

Recommendation 16: Copy of registered notice

The regulation should provide that:

(a) The registry must promptly transmit a copy of a registered notice to each registrant at the address set forth in the notice, indicating the date and time when it became effective and the registration number; and

(b) The registrant must send a copy of a registered notice to each grantor at the address set forth in the notice or at the current address known to the registrant within [a short period of time, such as thirty days, to be specified by the enacting State] after the registrant has received a copy of the registered notice.

[Note to the Working Group: The Working Group may wish to note that, as a drafting matter, the former recommendation 31 (A/CN.9/WG.VI/WP.50/Add.2) has been placed right after recommendation 15, as the Secured Transactions Guide deals with the matter of copy of registered notices as a matter of integrity of the registry record. In any case, copy of registered notice is not a matter that belongs in a section dealing with cancellation and amendment, unless it refers only to a copy of an amendment or cancellation notice, but even in that case, the matter is one relating more to the integrity of the registry record. The Working Group may wish to consider whether the new recommendation 16 should be retained in this place in the text.]

Recommendation 17: Amendment of information in the registry record

The regulation should provide that information in a registered notice may be amended only by registration of an amendment notice in accordance with recommendations 28, 29 or 31.

Recommendation 18: Removal of information from the registry record

The regulation should provide that information in a registered notice is removed from the publicly available registry record upon the expiry of its period of effectiveness or upon registration of a cancellation notice in accordance with recommendations 30 or 31.

Recommendation 19: Archival of information removed from the registry record

The regulation should provide that information removed from the publicly available registry record is archived for a period of at least [a long period of time, such as, for example, twenty years, to be specified by the enacting State] in a manner that enables the information to be retrieved.

Recommendation 20: Language of a notice

The regulation should provide that the information in a notice should be expressed in [the language or languages to be specified by the enacting State]. The registry should specify and make publicly available the character set to be used.

IV. Registration information

Recommendation 21: Information required in an initial notice

The regulation should provide that:

(a) The initial notice must contain the following information in the designated field:

(i) The identifier and address of the grantor in accordance with recommendations 22-24;

(ii) The identifier and address of the secured creditor or its representative in accordance with recommendation 25;

(iii) A description of the encumbered assets in accordance with recommendations 26 and 27;

[(iv) The period of effectiveness of the registration in accordance with recommendation 11;² and

(v) The maximum monetary amount for which the security right may be enforced];³ and

(b) If there is more than one grantor or secured creditor, the registrant must enter the required information in the designated field separately for each grantor or secured creditor, either in the same notice or in different notices.

² If the enacting State has chosen option B or C in recommendation 11 (see *Secured Transactions Guide*, rec. 69).

³ If the secured transactions law of the enacting State requires it (see *Secured Transactions Guide*, rec. 57, subpara. (d)).

Recommendation 22: Grantor identifier (natural person)

The regulation should provide that, if the grantor is a natural person:

- (a) The grantor identifier is:

Option A

the name of the grantor;

Option B

the name of the grantor and [any other information to be specified by the enacting State to uniquely identify the grantor, such as the grantor's birth date or any personal identification or other number assigned to the grantor by the enacting State];

(b) Where the grantor's name includes a family name and one or more given names, the name of the grantor consists of the grantor's family name and the grantor's first and second given names, and each component of the name must be entered in the designated field;

(c) Where the grantor's name consists of only one word, the name of the grantor consists of that word and it must be entered in field designated for the family name;

- (d) The name of the grantor is determined as follows:

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

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

(iii) If neither subparagraph (d)(i) nor subparagraph (d)(ii) of this recommendation applies, the [the enacting State should specify the type of official document, such as an identification card or driver's licence, issued to the grantor by the enacting State, that it considers appropriate];

(iv) If neither subparagraph (d)(i), nor subparagraph (d)(ii), nor subparagraph (d)(iii) of this recommendation applies but the grantor is a citizen of [the enacting State], the name of the grantor is the name as stated in the grantor's certificate of citizenship;

(v) If neither subparagraph (d)(i), nor subparagraph (d)(ii), nor subparagraph (d)(iii), nor subparagraph (d)(iv) of this recommendation applies, the name of the grantor is the name as stated in a valid passport issued by the State of which the grantor is a citizen and, if the grantor does not have a valid passport, the name of the grantor 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;

(vi) In a case not falling within subparagraphs (d)(i) to (v) of this recommendation, the name of the grantor is the name as stated in any two of the following valid official documents [the enacting State to specify documents other than the ones specified in subparagraph (d)(iii) of this recommendation, such as a social security, health insurance or tax card, issued to the grantor by the enacting State].

Recommendation 23: Grantor identifier (legal person)

The regulation should provide that, if the grantor is a legal person, the grantor identifier is

Option A

the name of the grantor that is specified as its name in the most recent [document, law or decree to be specified in the enacting State] constituting the legal person.

Option B

the name of the grantor that is specified as its name in the most recent [document, law or decree to be specified by the enacting State] constituting the legal person, and [another identifier to be specified by the enacting State to uniquely identify the grantor, such as a registration or other number].

[Recommendation 24: Grantor identifier (special cases)]

The regulation should provide that:

(a) If the encumbered assets are subject to insolvency proceedings, the grantor identifier is the name of the insolvent person in accordance with recommendation 22 or 23, with the specification in a separate field that the grantor is in insolvency proceedings;

(b) If the grantor is a syndicate or joint venture, the grantor identifier is the name of the syndicate or joint venture designated in the most recent [document, law or decree to be specified by the enacting State] constituting it [and any additional information specified by the enacting State to uniquely identify the grantor] in accordance with recommendation 22 or 23;

(c) [If the grantor is a trust or an estate, the grantor identifier is the name of the trust or the estate in accordance with recommendation 22 or 23, with the specification in a separate field that the grantor is a trust or estate.]

(d) If the grantor is an entity other than one already referred to in the preceding rules, the grantor identifier is the name of the entity as designated in the most recent [document, law or decree to be specified by the enacting State] constituting it [and any additional information specified by the enacting State to uniquely identify the grantor] in accordance with recommendation 22 or 23.]

[Note to the Working Group: The Working Group may wish to note that, pursuant to its decision (see A/CN.9/743, para. 47), recommendation 24 appears within square brackets to indicate that its goal is to set out examples of special cases for enacting States to select and adapt to their own laws, as the treatment of these cases differed from State to State.]

Recommendation 25: Secured creditor identifier

The regulation should provide that:

(a) If the secured creditor or its representative is a natural person, the identifier is the name of the secured creditor or its representative in accordance with recommendation 22;

(b) If the secured creditor or its representative is a legal person, the identifier is the name of the secured creditor or its representative in accordance with recommendation 23; and

(c) If the secured creditor or its representative is a kind of person referred to in recommendation 24, the identifier is the name of the person in accordance with recommendation 24.

Recommendation 26: Description of encumbered assets

The regulation should provide that:

(a) When the encumbered assets are described in an initial or amendment notice, they should be described in the designated field of the notice in a manner that reasonably allows their identification; and

(b) Unless otherwise provided in the law, a generic description that refers to all assets within a generic category of movable assets includes all of the grantor's present and future assets within the specified category;

(c) Unless otherwise provided in the law, a generic description that refers to the grantor's movable assets includes all of the grantor's present and future movable assets.

Recommendation 27: Incorrect or insufficient information

The regulation should provide that:

(a) An initial notice, or an amendment notice that amends the grantor's identifier or adds a grantor, is effective only if it provides the grantor's correct identifier as set forth in recommendations 22-24 or, in the case of an incorrect identifier, if the notice would be retrieved by a search of the registry record using the grantor's correct identifier;

(b) Except as provided in subparagraph (a) of this recommendation, an incorrect or insufficient statement of the information required to be provided in a registered notice does not render it ineffective, unless it seriously misleads a reasonable searcher;

(c) An incorrect identifier of a grantor in a registered notice does not render it ineffective with respect to other grantors sufficiently identified in the notice;

(d) An insufficient description of encumbered assets in a registered notice does not render it ineffective with respect to other encumbered assets sufficiently described in the notice; and

(e) An incorrect statement in the registered notice with respect to the period of effectiveness of registration and the maximum amount secured does not render it

ineffective, while third parties that relied on such incorrect statement should be protected].

[Note to the Working Group: The Working Group may wish to consider whether subparagraph (e) of this recommendation, which has been added to reflect the principle enshrined in recommendation 66 of the Secured Transactions Guide, should be retained.]

V. Amendment and cancellation information

Recommendation 28: Information required in an amendment notice

The regulation should provide that:

(a) The following information is required to be entered in the designated field of an amendment notice:

- (i) The registration number of the registered notice to which the amendment relates;
- (ii) If information is to be added, the additional information in the manner provided by this regulation for entering information of that kind; and
- (iii) If information is to be changed, the changed information in the manner provided by this regulation for entering information of that kind;

[(b) An amendment notice that discloses a transfer of the encumbered assets should add the identifier and address of the transferee as a grantor in accordance with recommendations 22-24 and its address. An amendment that discloses a transfer that relates to only part of the encumbered assets must indicate the identifier and address of the transferee as a grantor in accordance with recommendations 22-24 and describe the part of the encumbered assets transferred in accordance with recommendation 26;]

(c) An amendment notice that discloses an assignment of the secured obligation must indicate the identifier and address of the assignee as a secured creditor in accordance with recommendation 25 and, in the case of a partial assignment, describe the encumbered assets to which the partial assignment relates in the designated field; and

(d) An amendment notice may relate to

Option A

a single item of information in a notice.

Option B

one or multiple items of information in a notice.

[Note to the Working Group: The Working Group may wish to consider whether a change addressed in subpara. (iii) of recommendation 28 encompasses deletion of information or whether a separate subparagraph should be included to address deletions. In this regard, the Working Group may wish to note that changes and deletions may have different third-party effectiveness consequences.]

Recommendation 29: Global amendment of secured creditor information in multiple notices

The regulation should provide that a registrant named in multiple registered notices may amend or request the registry to amend the secured creditor information with a single global amendment.

[Note to the Working Group: The Working Group may wish to consider whether both options (an amendment by the registrant and by the registry at the request of the registrant) should be offered in recommendation 29, or just one of them, and, if so, which one. A registry could be designed to accommodate both options but this would be done at some cost.]

Recommendation 30: Information required in a cancellation notice

The regulation should provide that a cancellation notice should include in the designated field the registration number.

Recommendation 31: Compulsory amendment or cancellation

The regulation should provide that:

- (a) A registrant is obliged to register an amendment or cancellation notice if:
 - (i) The registration of an initial or amendment notice has not been authorized by the grantor at all or to the extent described in the notice;
 - (ii) Authorization has been withdrawn and no security agreement has been concluded;
 - (iii) The security agreement has been revised in a way that makes the information contained in the registered notice inaccurate; or
 - (iv) The security right to which the registered notice relates has been extinguished by payment or otherwise and there is no commitment to extend further credit;
- (b) In the case of subparagraph (a)(ii) to (a)(iv) of this recommendation, the registrant may charge any fee agreed upon with the grantor;
- (c) Each registrant is obliged to register to the registry an amendment or cancellation notice to the extent appropriate, not later than [a short period of time, such as 15 days, to be specified by the enacting State] after the registrant's receipt of a written request by the grantor if any circumstance described in subparagraph (a) of this recommendation has occurred and the registrant has not complied;
- (d) No fee or expense may be charged or accepted by the registrant for compliance with the obligation addressed in subparagraph (c) of this recommendation;
- (e) If the registrant does not comply within the time period provided in subparagraph (c) of this recommendation, the grantor is entitled to seek a cancellation or amendment through a summary judicial or administrative procedure;
- (f) 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 subparagraph (c) of this recommendation, provided that there are appropriate mechanisms to protect the registrant; and

- (g) The amendment or cancellation notice is registered by

Option A

the registry promptly upon receipt of the notice [with the relevant judicial or administrative order attached].

Option B

a judicial or administrative officer promptly upon receipt of the notice [with the relevant judicial or administrative order attached].

[Note to the Working Group: The Working Group may wish to note with respect to subparagraph (a) that, while obliging the secured creditor to ensure that registrations are up to date may be good policy, the Secured Transactions Guide makes no recommendation on this matter other than that the secured creditor should be obliged to register an amendment or cancellation notice only at request of the grantor. Be that as it may, the Working Group may wish to consider that this is a substantive law matter that should be addressed in the commentary rather than in the recommendations for a registry regulation. In addition, the Working Group may wish to note that subparagraphs (b) and (d) deal with matters that are typically addressed in the security agreement and the law applicable to obligations. Thus, the Working Group may wish to consider whether those matters too should be rather discussed only in the commentary.]

VI. Searches

Recommendation 32: Search criteria

The regulation should provide that the criterion by which a search of the publicly available registry record may be conducted is:

- (a) The grantor identifier; or
- (b) The registration number.

Recommendation 33: Search results

The regulation should provide that:

(a) The registry provides a search result that indicates the date and time when the search was performed and either sets forth all information in each registered notice that matches the specified search criterion or indicates that no registered notice matched the search criterion;

(b) A search result reflects information in the registry record that matches exactly the search criterion except [the enacting State to specify any exceptions];

(c) Upon request made by searcher, the registry issues an official search certificate indicating the search result.

VII. Fees

Recommendation 34: Fees for registry services

The regulation should provide that:

Option A

(a) [Subject to subparagraph (b) of this recommendation,] the following fees are payable for registry services:

- (i) Registrations:
 - a. Paper-based [...];
 - b. Electronic [...];
- (ii) Searches:
 - a. Paper-based [...];
 - b. Electronic [...];
- (iii) Certificates:
 - a. Paper-based [...];
 - b. Electronic;

(b) The registry may enter into an agreement with a person that satisfies all registry terms and conditions and establish a registry user account to facilitate the payment of fees.

Option B

The [the enacting State to specify an administrative authority] may determine the fees and methods of payment for the purposes of the regulations by decree.

Option C

The [registry] [search] [electronic search] services are free of charge.
