



**DIPLOMATIC CONFERENCE TO ADOPT A
CONVENTION ON SUBSTANTIVE RULES
REGARDING INTERMEDIATED SECURITIES**
Geneva, 1 to 13 September 2008

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SUMMARY OF THE DECISIONS TAKEN ON 2 SEPTEMBER 2008

1. The Conference decided the composition of committees as follows:

Credentials Committee

Argentina, Australia, Greece, Indonesia, Nigeria, the Swiss Federal Department of Foreign Affairs providing its services as advisor. The Conference requested the Committee to report as soon as possible.

Drafting Committee

Belgium, Brazil, Canada, Chile, France, Germany, Japan, Luxembourg, Nigeria or South-Africa (to be decided), one Nordic State, Switzerland, the United Kingdom, the United States of America. Observers: European Commission, European Central Bank, Emerging Markets Trade Association.

Final Clauses Committee

Canada, China (pending internal consultations and decision), France, Germany, Italy, Mexico, Switzerland, Ukraine, United States of America.

2. A *Committee on Emerging Markets and Follow-up Issues* will be constituted upon consultations in the course of the week to follow.
3. The Commission of the Whole referred two drafting issues to the Drafting Committee, notably regarding the relationship between Article 7 and Article 1(b), as well as a review of whether the current wording of Article 7(1)(d) fully reflects the approach of functional neutrality.
4. In respect of Article 7(1)(c) and Article 7(2)(b) it decided that the reference to non-Convention law was appropriate but not sufficient; so that the wording 'the law under which the securities are constituted' continued to serve a purpose.
5. It was decided that a reference to Article 10 would be included in Article 7(3).

6. The Commission agreed that the draft Convention does not interfere with a States' power to regulate and to apply the Convention only to licensed or regulated entities. If a Contracting State elected to limit the application of the Convention to such entities a declaration to that effect would be the proper method to ensure transparency. A first draft would be developed by the Drafting Committee.

7. It was agreed that the definition in Article 1(e) should stand as it is.

8. In respect of Article 8 the Commission decided that, at this point in time, no amendment of the provision's text was necessary, however, the provision's title might need revision. Article 8 would be re-examined in the context of Article 25.

9. There was consensus that the draft Convention, in principle, should refrain from interfering with the issuer-investor relationship governed by national company law. This approach (see, e.g., Articles 7, 8 and 26(3)) could, however, be implemented more clearly by a more prominently located express provision in the text.

10. With respect to Article 9 it was decided that no instructions to amend needed to be given to the Drafting Committee and that Article 9(2) should be looked into again in the course of the discussion on Articles 12 and 13.

11. The Commission decided that Article 10(1) is not confined to limited interests and that as regards Article 10(4)(b) the Drafting Committee will consider the appropriateness of the use of the words 'sufficient' and/or 'necessary' and whether there are any inconsistencies in the current text.

12. In respect of Article 1(k) the Drafting Committee was instructed to amend the text so as to allow also for bilateral control agreements between the account holder and the intermediary.

13. The definition of Article 1(l) of 'designating entry' stands as it is.

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