



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

UNIDROIT 2008
CONF. 11 – Doc. 36
Original: English
11 September 2008

SUMMARY OF THE DECISIONS TAKEN ON 10 SEPTEMBER 2008

1. The Commission received the Interim Report by the Chairman of the Drafting Committee (CONF. 11 – Doc. 33). Members of the Drafting Committee and the Secretariat and a delegate with special expertise presented explanations regarding (a) the two language versions; (b) issues to be treated in the Official Commentary; (c) the meaning of certain modifiers in the English version; (d) the use of the terms “non-Convention law” and “applicable law”. The Commission then proceeded to second reading.
2. It was decided that the Drafting Committee should examine the use of the terms “non-Convention law” and “applicable law” throughout the text, including the definitions, and conduct that research also in light of Article 3.
3. The Title, the Preamble and the following definitions were approved and referred to the Conference: Article 1(a)-(j), (l), (n)-(p).
4. Article 3 was referred to the Drafting Committee with a view to re-examine whether the previous formulation of paragraph (b) was preferable. With respect to Article 1(m) the Drafting Committee was tasked with polishing the wording.
5. Article 3bis was adopted as amended and referred to the Conference.
6. Article 4 was adopted and referred to the Conference.
7. With respect to Article 5(2)(c)(ii) it was the Commission’s understanding that this was not an exhaustive list but only important examples.
8. Articles 6, 6bis and 7 were adopted and referred to the Conference.
9. With respect to Article 8, there was no sufficient support for the proposal to delete the second part. The Drafting Committee was tasked with to make a proposal.
10. The Drafting Committee was requested to examine whether Article 8bis was best relocated in Chapter I.
11. Article 9 was adopted and referred to the Conference.
12. The brackets in Article 10(1) will be deleted. A new paragraph (1bis) will be inserted and the bracketed word “and” will be deleted.
13. Article 11 was adopted as amended and referred to the Conference.
14. With respect to Article 12(1) the drafting needed to reflect the decision that it only applies to “horizontal situations”. The English version had to be corrected. Article 12(2) should express clearer the idea of the level-playing-field principle.