



**DIPLOMATIC CONFERENCE TO ADOPT A
CONVENTION ON SUBSTANTIVE RULES
REGARDING INTERMEDIATED SECURITIES**
Final session
Geneva, 5 to 7/9 October 2009

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**Outline of the modifications proposed by
the Informal Working Group on Insolvency**

(chaired by Switzerland)

This outline reflects the proposals made by an informal Working Group which benefited from the input of delegations including the delegations of Austria, Brazil, Denmark, the European Community, France, Germany, Spain, Sweden, Switzerland, the United Kingdom and the United States of America. The text below reflects the substance of the suggested amendments without any pretence at proper drafting.

Preamble

Insert after "HAVING due regard for non-Convention law matters ...":

RECOGNISING that property rights should be protected in insolvency proceedings in accordance with the public policies reflected in national insolvency laws,
[...]

Article 7

Delete

Article 11

Amend as follows:

2. No further step is necessary, or may be required by the non-Convention law [or by any rule applicable in and as result of an insolvency proceeding](#), to render the acquisition of intermediated securities effective against third parties.
[...]

Article 12

Amend as follows:

2. No further step is necessary, or may be required by the non-Convention law or by any rule applicable in and as result of an insolvency proceeding, to render the acquisition of intermediated securities effective against third parties.
[...]

Article 14

Amend as follows:

1. Rights and interests that have become effective against third parties under Article 11 or Article 12 are effective against the insolvency administrator and creditors in any insolvency proceeding, ~~to the same extent as comparable interests in that insolvency proceeding.~~

2. This Article does not affect the application of any substantive or procedural rule of law applicable in and as a result of an insolvency proceeding, such as (but not limited to) any rule relating to:

_____ [(a) the ranking of categories of claims;

_____ (b) the avoidance of a disposition as a preference or as a transfer in fraud of creditors; or

_____ (c) the enforcement of rights to property that is under the control or supervision of the insolvency administrator.]

3. [current paragraph 2]

4. [current paragraph 3]

Article 19

Add a new paragraph as follows:

8. This Article applies notwithstanding the commencement or continuation of any insolvency proceeding.

Article 21

(Unchanged)

- END -