



INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW
INSTITUT INTERNATIONAL POUR L'UNIFICATION DU DROIT PRIVE

DIPLOMATIC CONFERENCE TO ADOPT A
CONVENTION ON SUBSTANTIVE RULES REGARDING
INTERMEDIATED SECURITIES

**Committee on emerging markets issues,
follow-up and implementation
Second Meeting
Rio de Janeiro, 27 and 28 March 2012**

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ANNOTATED AGENDA

1. Opening of the meeting
2. Adoption of the Agenda
3. Colloquium on Financial Markets Law
4. Consideration of the reception given to the UNIDROIT Convention on Substantive Rules for Intermediated Securities in the various countries, in particular in emerging countries
5. Consideration of legislative measures to implement the Convention and incorporate it in domestic law
6. Presentation of the Official Commentary on the Convention
7. Consideration of follow-up activities to promote the Convention
8. Information on current work of UNIDROIT on netting of financial instruments and possible future work by UNIDROIT in the area of capital markets
9. Other business

Annotations to the Provisional Agenda

Item No. 1 – Opening of the meeting

1. The Committee on Emerging Markets Issues, Follow-Up and Implementation established by the diplomatic Conference to Adopt a Convention on Substantive Rules regarding Intermediated Securities will hold its second meeting since the final session of the diplomatic Conference in Rio de Janeiro, on 27 and 28 March 2012. The meeting will be opened on Tuesday, 27 March 2012, at 9 a.m. and will close on Wednesday, 28 March, at 6 p.m. The venue of the meeting and other practical information will be communicated in due course.

2. The first day of the Committee's meeting (i.e. Tuesday, 27 March 2012) will take the form of a Colloquium on Financial Markets Law (agenda item 3). In the second day, the Committee will reconvene in a meeting open to its members, to delegates of States and representatives of organisations invited to attend as observers to consider the other items of the provisional agenda.

Item No. 3 – Colloquium on Financial Markets Law

3. The purpose of the Colloquium on Financial Markets Law is to consider action taken by emerging markets to create a favourable environment for trading in intermediated securities, with particular emphasis on the legal underpinnings of various securities holding systems, including so-called "transparent systems", and measures and rules applied to ensure their integrity. The Colloquium will also discuss how emerging markets have reacted to the financial crisis and which measures need to be adopted to increase legal certainty and enhance investors' protection. A detailed programme will be released in due course.

Item No. 4 – Consideration of the reception given to the UNIDROIT Convention on Substantive Rules for Intermediated Securities in the various countries, in particular in emerging countries

4. In its Resolution No. 3, of 9 October 2009, the diplomatic Conference to Adopt a Convention on Substantive Rules regarding Intermediated Securities invited the Member States of UNIDROIT to cooperate with UNIDROIT in organising activities, *inter alia*, assess the continued effectiveness of the Convention in light of relevant contemporary developments in market circumstances and trends in market regulation.

Item No. 5 – Consideration of legislative measures to implement the Convention and incorporate it in domestic law

5. In 2010, the UNIDROIT Secretariat prepared a guidance document intended to provide advice for countries that ratify the Convention on how best to incorporate the Convention and integrate it into their domestic legal systems.

6. The first draft of that document-, in the form in which it was submitted to the first meeting of the Committee, contained two parts, one relating to the formulation of declarations that may be lodged under the Convention and the other offering guidance on the relationship between the rules of the Convention and the otherwise applicable laws in a Contracting State. The Committee decided at its first meeting that the document should be split and make the two parts separate the first being a typical Secretariat document as Depository (UNIDROIT 2011 – DC11/DEP/Doc. 1).

7. The document dealing with information for Contracting States in respect of the Convention's references to sources of law outside the Convention was submitted to the UNIDROIT Governing Council at its 90th session (Rome, May 2011). The Council endorsed the proposal of the Committee and the Secretariat to send it to a number of experts and other Organisations for in-depth comment as to the scope and content of the prospective Legislative Guide given the complexity and variety of the subjects involved, some of which had not yet been dealt with by UNIDROIT. The outcome of these consultations will be submitted to the participants in the second meeting of the Committee.

8. UNIDROIT documents are posted on the UNIDROIT website (<http://www.unidroit.org/>) upon their issuance.

Item No. 6 – Presentation of the Official Commentary on the Convention

9. In its Resolution No. 2, adopted together with the Final Act at the first session of the diplomatic Conference (Geneva, 1-12 September 2008), the Conference called for the preparation of a draft Official Commentary on the Convention by the Chairperson of the Drafting Committee, in close co-operation with no more than three members of the Drafting Committee, under the supervision of the Chairperson of the Commission of the Whole, the Chairperson of the Final Clauses Committee, the Chairperson of the Credentials Committee, the Co-Chairpersons of the Committee on Emerging Market Issues, Follow-up Work and Implementation, the Chairperson of the Working Group on Insolvency and the Co-Chairpersons of the Working Group on Settlement and Clearing Systems, as well as with the UNIDROIT Secretariat.

10. The draft Official Commentary was presented to the final session of the diplomatic Conference (Geneva, 5-9 October 2009). At the close of the final session, the Conference in its Resolution No. 2 requested the finalisation of the Official Commentary on the Convention, taking into account policy choices and relevant matters considered by the Conference, and its circulation to all negotiating States and participating observers no later than 10 months after the final session of the diplomatic Conference inviting comments thereon within four months upon its circulation. The revised draft was circulated on 12 August 2010. Comments received from a number of States and observers were considered by the persons appointed by the Conference to finalise the Official Commentary and the final text, which was delivered to the Secretariat on 25 August 2011. It is expected to be published within the first quarter of 2012.

Item No. 7 – Consideration of follow-up activities to promote the Convention

11. In its Resolution No. 3, of 9 October 2009, the diplomatic Conference to Adopt a Convention on Substantive Rules regarding Intermediated Securities invited the Member States of UNIDROIT, and the States, Regional Economic Integration Organisations and Observers participating in the diplomatic Conference, and in particular the States represented on the Committee on Emerging Markets Issues, Follow-Up and Implementation of the diplomatic Conference, to cooperate with UNIDROIT in organising activities to promote awareness and understanding of the Convention and assess its continued effectiveness in light of relevant contemporary developments in market circumstances and trends in market regulation, and also with a view to encouraging the Convention's early entry into force and its signature, ratification, acceptance, approval and accession by States and Regional Economic Integration Organisations.

Item No. 8 – Information on current work of UNIDROIT on netting of financial instruments and possible future work by UNIDROIT in the area of capital markets

12. At its 67th session (Rome, 1 December 2010), the General Assembly of UNIDROIT agreed to include the preparation of principles and rules on netting of financial instruments in the triennial Work Programme of the Organisation as a matter of high priority.

13. The Secretariat has since convened two sessions of a Study Group (Rome, 18-21 April and 13-15 September 2011). A third session will be held in Rome from 7 to 9 February 2012. The Secretariat will inform the Committee of the work done on this topic and the process and timelines envisaged for its completion.

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