



**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 4 SEPTEMBER 2008

1. There was consensus on the 'safe harbour' approach reflected in Article 14. The Drafting Committee was asked to see whether this could be clarified in the text.
2. It was decided that Article 14(1) should include a reference to Article 10 methods.
3. It was agreed that the expression 'third parties' in Article 14(2) would not cover issuers and that this issue of scope would be reflected in the Official Commentary.
4. It was agreed that if an intermediary acquires intermediated securities and enters a corresponding credit to its account holder's account, the acquisition is not "made by way of gift or otherwise gratuitously" within the meaning of Article 14(3). This should be clarified in the Official Commentary.
5. There was broad support for a revision of Article 14(4), sub-paragraphs (a) and (b), along the lines of a proposal set out in CONF. 11 – Doc. 23. Some additional drafting suggestions were made that the Drafting Committee would take into account. No opt-out mechanism would be envisaged.
6. In respect of Article 14(4)(c) it was decided that organisations should, as a principle, be treated in the same manner as individuals. The text was left unchanged. Who qualifies as an organisation and the situation of a principal whose knowledge could be attributed to a nominee should be treated in the Official Commentary.
7. There was support for the policy that an acquirer who should not have expected a book entry should not be protected.
8. It was decided that a Contracting State may derogate from Article 15(3) by way of a declaration with the result that (1) designating entries rank among themselves on the basis of a first in time rule; (2) other Article 10 methods rank among themselves on the basis of a first in time rule; and (3) that all designating entries are senior to all other Article 10 methods.
9. It was decided that the square brackets in Article 16 should be deleted. The issue could be rediscussed in the course of the discussion on insolvency.