



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
Final session**
Geneva, 5 to 7/9 October 2009

UNIDROIT 2009
CONF. 11/2 – Doc. 33 Corr.
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DRAFT FINAL ACT

**of the final session of the diplomatic Conference to Adopt a Convention
on Substantive Rules regarding Intermediated Securities held under the
auspices of the International Institute for the Unification of Private Law
in Geneva from 5 to 9 October 2009**

The Plenipotentiaries at the final session of the diplomatic Conference to Adopt a Convention on Substantive Rules regarding Intermediated Securities, held under the auspices of the International Institute for the Unification of Private Law, met in Geneva, at the invitation of the Government of the Swiss Confederation, from 5 to 9 October 2009 for the purpose of finalising the *draft Convention on Substantive Rules regarding Intermediated Securities*, prepared by four sessions of a Committee of Governmental Experts of the International Institute for the Unification of Private Law and a first session of the diplomatic Conference held in Geneva from 1 to 12 September 2008.

Representatives of the Governments of [...] States participated in the Conference.

The representatives of the Governments of the following [...] States presented credentials in due and proper form:

[To be completed after the adoption of the Report of the Credentials Committee]

The following [...] States also participated in the Conference:

[To be completed after the adoption of the Report of the Credentials Committee]

The European Community also participated in the Conference.

The following [...] international Organisations and groups were represented by observers:

[To be completed after the adoption of the Report of the Credentials Committee]

The Conference elected as President Mr Dáithí Ó Ceallaigh (Ireland) and further elected as Vice-Presidents:

Mr Harold Burman (United States of America)
 Mr Robert Patch (Australia)
 Mr Alexandre Pinheiro Dos Santos (Brazil)
 Mr Narinder Singh (India)
 Ms Maria Vermaas (South Africa).

The Secretariat of the Conference was as follows:

Secretary General – Mr Jose Angelo Estrella-Faria, Secretary General
Executive Secretary and Chief Conference Officer – Ms Marina Schneider, Senior Officer
Deputy Secretary and Chief Scientific Officer – Mr Thomas Keijser, Senior Officer
Deputy Secretary – Mr John Atwood, Senior Officer
Deputy Secretary – Ms Frédérique Mestre, Senior Officer

Other officials of UNIDROIT also provided services to the Conference.

The Conference established a Commission of the Whole, which was chaired by Mr Hans Kuhn (Switzerland); Mr Ulrik Rammeskov Bang-Pedersen (Denmark) was elected Vice-Chairperson of the Commission of the Whole. The Conference also established the following Committees:

Credentials Committee

Chairperson: Mr Mohammed Kawu Ibrahim / Mr Edosa Kennedy Aigbekaen (Nigeria)

Members: Argentina
 Australia
 Greece
 Nigeria
 Republic of Korea

Adviser: Switzerland

Drafting Committee

Chairperson: Mr Hideki Kanda (Japan)

Members: Belgium
 Brazil
 Canada
 Chile
 Germany

Finland/Sweden
France
Japan
Luxembourg
South Africa/Nigeria
Switzerland
United Kingdom
United States of America

European Community

Observers: European Central Bank
Trade Association for the Emerging Markets

Final Clauses Committee

Chairperson: Mr Sébastien Cochard (France)

Members: Argentina
Canada
China
France
Germany
Italy
Switzerland
United States of America

Committee on Emerging Markets Issues, Follow up and Implementation

Co-Chairpersons: Mr Alexandre Pinheiro Dos Santos (Brazil)
Ms Niu Wenjie (China)

Members: Argentina
Cameroon
Chile
France
Greece
India
Japan
Nigeria
Republic of Korea
South Africa
United States of America

European Community

Observers: Indonesia
European Central Bank
European Issuers
Hague Conference on Private International Law
Trade Association for the Emerging Markets

Following its deliberations, the Conference adopted the *Convention on Substantive Rules regarding Intermediated Securities* the text of which is set out in an appendix to this Final Act.

The said Convention has been opened for signature at Geneva this day.

The text of the Convention and of the Resolutions adopted by the Conference are subject to verification by the Secretariat of the Conference under the authority of the President of the Conference within a period of [120 days] from the date hereof as to the linguistic changes required to make the texts in the two official languages consistent with one another.

The Conference furthermore adopted the following Resolution[s] which are set out in [an] appendi[x][ces] to this Final act.

IN WITNESS WHEREOF the representatives,

HAVE SIGNED this Final Act.

DONE at Geneva, this ninth day of October, two thousand and nine, in a single copy in the English and French languages, each text being equally authentic.

The President

The Secretary General

APPENDIX

Convention on Substantive Rules regarding Intermediated Securities

[To be completed after the adoption of the Report of the Commission of the Whole]

RESOLUTION N° XX**relating to the Official Commentary on the Convention**

THE CONFERENCE,

HAVING ADOPTED the Convention on Substantive Rules regarding Intermediated Securities;

CONSCIOUS of the need for an Official Commentary on this text as an aid for those called upon to work with this instrument;

RECOGNISING the increasing use of commentaries of this type in the context of modern, technical commercial law instruments;

COMMENDING the Editors, the initial authors, the Steering Committee and the UNIDROIT Secretariat for the excellent work done on the draft Official Commentary (CONF. 11/2 - Doc. 5); and

1. *REQUESTS* the finalisation of the 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 as well as with the UNIDROIT Secretariat;
2. *REQUESTS* a Steering Committee consisting 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 to co-ordinate the work on the Official Commentary and resolve any issue arising in this process;
3. *REQUEST* that the final version of the Official Commentary, reflecting policy choices and relevant matters considered by the Conference to be addressed by the Official Commentary, be circulated by the UNIDROIT Secretariat to all negotiating States and participating observers no later than 12 months after the final session of the diplomatic Conference inviting comments thereon [within 2 months upon its circulation];
4. *EXPRESSES ITS FIRM WISH* that UNIDROIT provide sufficient resources to effectively support the finalisation of the Official Commentary; and
5. *REQUESTS* that a revised final version of the Official Commentary be transmitted by the UNIDROIT Secretariat to all negotiating States and participating observers as soon as practicable.

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