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

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Factoring Model Law Working Group

Third session (remote)
Rome, 26-28 May 2021

UNIDROIT 2021
Study LVIII A – W.G.3 – Doc. 2
English only
May 2021

ISSUES PAPER

1. This document provides a discussion of issues that the Factoring Model Law Working Group may wish to consider at its second session in preparing the Model Law.

2. The issues analysed in this document were identified by either (i) Working Group experts during an informal meeting in Cartagena in February 2020; (ii) the Chair of the Working Group; (iii) Members of the Working Group during and/or after the first and second session; or (iv) the Secretariat. This document is not intended to provide an exhaustive list of issues or a full legal analysis of each issue. The purpose of the document is to provide a starting point for the Working Group's deliberations and a structure for discussions at the second session.

3. This Issues Paper elaborates on the questions raised by the Working Group during its previous meetings, as reflected in the Reports.[1] The Issues Paper also covers aspects that were not previously covered concerning insolvency, transition, and regulation. In addition to the issues explored below, several questions to the Working Group are raised in the set of documents that include draft provisions of the Factoring Model Law (MLF) (Study LVIII A – W.G.3 – Doc. 3).

4. The part relating to the structure of the Model law on Factoring has been retained from the Issues Paper of the first session. Noting that the discussion of several other issues at the first and second sessions of the Working Group were not concluded and might require further deliberation, the Working Group members are invited to raise any of these matters during the course of the third session, with reference to Study LVIII A – W.G.1 – Doc. 2 and Study LVIII A – W.G.2 – Doc. 2 The Working Group is also invited to examine Study LVIII A – W.G.1 – Doc. 3, which provides further background analysis on relevant international instruments and domestic factoring laws.

5. The Secretariat is grateful to the Kozolchyk National Law Center (NatLaw) and Mr Bruce Whittaker for their assistance in the preparation of this document.

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1 See Summary Report of the First Session (Study LVIII A – W.G.1 – Doc. 4 rev. 1) and the Summary Report of the Second Session (Study LVIII A – W.G.2 – Doc. 4)

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I. PRELIMINARY MATTERS

A. Background

6. In December 2018, as one of its proposals for the UNIDROIT 2020-2022 Work Programme, the World Bank Group (WBG) suggested that UNIDROIT develop a Model Law on Factoring. The WBG proposal highlighted three reasons why a UNIDROIT Model Law on Factoring should be developed:

(i) To facilitate the use of factoring as an important form of financing increasing access to credit;

(ii) To address the constraints in access to credit as a limit on economic growth, particularly in developing countries and emerging markets; and

(iii) The gap that currently exists in international standards regarding factoring. The proposal noted that existing instruments largely focus on international or cross-border transactions and do not provide sufficient guidance to States to develop functional domestic factoring frameworks. UNCITRAL Model Law on Secured Transactions (UNCITRAL Model Law), on the other hand, does provide elaborate asset specific rules for the development of national rules for assignments of receivables. Adoption of the Model Law in itself, however, is not sufficient to develop a fully functional national factoring system.

7. At its 98th session in May 2019, the UNIDROIT Governing Council approved the project for the 2020-2022 Triennial Work Programme.[2]

8. On 11 February 2020 an initial informal meeting on the project was held in the margins of an international secured transactions conference in Cartagena, Colombia.

9. On 1-3 July 2020, the Factoring Model Law Working Group met remotely for its first session. The Summary Report of the first session was presented as part of Document C.D. (99) B.8 at the 99th Session of the UNIDROIT Governing Council (Rome, 23 - 25 September 2020) which took note of the progress made by the Factoring Model Law Working Group. The Working Group met remotely for its second session on 14-16 December 2020. The Summary Report of the second session can be found here.

B. Format of the Model Law

10. The Factoring Model Law will consist of a set of black letter rules, accompanied by a limited commentary on each rule to explain its operation. This approach is consistent with the other model law that the Institute has developed, the UNIDROIT Model Law on Leasing, adopted in 2008. The Model Law on Leasing comprised of 24 articles accompanied by a 24-page commentary.[3]

11. During the informal Cartagena meeting several experts queried whether the Working Group would also need to develop more detailed implementation documents, such as a Guide to Enactment, as consistent with the practice of some UNCITRAL Working Groups. As the timeframe for the development and adoption of the Model Law is only three years, it is anticipated that the Working Group will only initially have sufficient time to prepare the Model Law itself and a limited commentary. Once the Model Law has been adopted in 2023, the UNIDROIT Governing Council could consider

2 UNIDROIT 2019 C.D. (98) 17, p. 36.

3 The Model Law on Leasing and accompanying commentary is available at: https://www.unidroit.org/explanatory-model-law-leasing-2008/english.

whether the mandate of the Working Group should be extended to prepare additional implementation documents, depending on whether there is an identified need for such materials.

C. Target Audience

12. The Model Law will be a standalone instrument for adoption by States looking to reform their domestic law to facilitate factoring. As consistent with all UNIDROIT instruments, the Model Law should be capable of being adopted by both common law and civil law States.

13. While the Model Law should be capable of serving as a model for law reform in any State, it was suggested at the Cartagena meeting that the Working Group should develop the Model Law with a focus on developing States and emerging markets that want to reform their existing domestic factoring laws but are not yet in a position to undertake a full reform of their secured transactions law.

D. Title of the instrument

14. It is anticipated that the formal title of the instrument will be the 'UNIDROIT Model Law on Factoring'. However, it was suggested during the Cartagena meeting that this title might be unduly limiting or misleading, on the basis that the Model Law may apply to other receivables transactions beyond factoring, such as securitisation.
Questions for the Working Group:

- *Is the proposed title "UNIDROIT Model Law on Factoring" appropriate or should a broader title be considered (it may be prudent to revisit this question once the Working Group has discussed the scope of the instrument)?*

E. Terminology

Use of Standard Definitions

15. It is suggested that the Model Law and other documentation produced by the Working Group builds on the "Standard Definitions for Techniques of Supply Chain Finance (SCF)",[4] as adopted by the Global Supply Chain Finance Forum.[5]

16. The Standard Definitions document provides definitions for terms such as receivables discounting, forfaiting, factoring, factoring variations, payables finance, distributor finance, and pre-shipment finance, explaining their mechanics. It is not suggested that the Model Law would need to define the various techniques, merely that Working Group documents use the Standard Definitions when distinguishing between different SCF techniques to ensure uniformity, consistency and accuracy.

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[4] https://iccwbo.org/content/uploads/sites/3/2017/01/ICC-Standard-Definitions-for-Techniques-of-Supply-Chain-Finance-Global-SCF-Forum-2016.pdf.

[5] The Global Supply Chain Finance Forum represents a number of industry associations with members around the world, including the International Chamber of Commerce (ICC) Banking Commission, BAFT, the Euro Banking Association (EBA), Factors Chain International (FCI), and the International Trade and Forfaiting Association (ITFA). The International Factors Group, one of the original sponsoring associations is now integrated with FCI.

Consistency of terminology with existing instruments

17. Existing instruments use different terminology for related concepts. The Working Group will need to consider which terminology the Factoring Model Law should use. The terminology to be adopted by the Factoring Model Law will to a large extent depend on the scope of the instrument. The below table sets out the different language used for several core concepts in four instruments that have been adopted over the past 30 years.

Factoring Convention (1988)	**Receivables Convention (2001)**	**UNCITRAL Model Law (2016)**	**AFREXIMBANK Factoring Model Law (2016)**
Supplier	Assignor	Grantor	Client
Factor	Assignee	Secured Creditor	Factor
Factoring Contract	Contract of Assignment	Security Agreement	Factoring Contract
Contract of sale of goods	Original Contract	Agreement between the grantor and the debtor of the receivable	Supply Contract
Notice of the assignment	Notification of assignment	Notification of a security right in a receivable	Notice of the assignment

F. Composition of the Working Group

18. As consistent with UNIDROIT's established working methods, The Working Group is composed of the following experts selected by UNIDROIT for their expertise in the field of factoring. Experts participate in a personal capacity and represent the world's different systems and geographic regions. The Factoring Working Group is composed of:

- Henry Gabriel (Chair) (United States)
- Giuliano Castellano (Italy)
- Michel Deschamps (Canada)
- Neil Cohen (United States)
- Louise Gullifer (United Kingdom)
- Alejandro Garro (Argentina)
- Megumi Hara (Japan)
- Catherine Walsh (Canada)
- Bruce Whittaker (Australia)

19. UNIDROIT has also invited a number of intergovernmental organisations and individual experts with knowledge in the field of factoring to participate as observers in the Working Group. Participation of these different organisations will ensure that different regional perspectives are taken into account in the development and adoption of the instrument. It is also anticipated that the cooperating organisations will assist in the regional promotion, dissemination and implementation of the Model

Law once it has been adopted. The following organisations have been invited to participate as observers in the Working Group:

- The World Bank Group
- The United Nations Commission for International Trade Law (UNCITRAL)
- The Kozolchyk National Law Center (NatLaw)
- The European Bank for Reconstruction and Development (EBRD)
- The Organization of American States (OAS)
- The African Export-Import Bank (AFREXIMBANK)
- Organisation for the Harmonisation of Business Law in Africa (OHADA)

20. Finally, UNIDROIT has also invited a number of industry associations to participate as observers in the Working Group, to ensure that the Model Law will address the industry's needs in facilitating factoring across the globe. The industry associations will also assist in promoting the implementation and use of the Model Law. The following private sector associations have been invited to participate as observer's in the Working Group:

- Factors Chain International (FCI)
- World of Open Account (WOA)
- Secured Finance Network (CFA)
- APEC-APFF/Financial Infrastructure Development Network
- International Chamber of Commerce (ICC)

G. Methodology and Organisation

21. Under the guidance of the Working Group Chair Professor Henry Gabriel, the Working Group will undertake its work in an open, inclusive and collaborative manner. As consistent with UNIDROIT practice, the Working Group will not adopt any formal rules of procedure and seek to make decisions through consensus.

22. The Factoring Model Law is a high priority project on the UNIDROIT Work Programme for the period 2020-2022. The Secretariat intends to complete the entire project during this Work Programme.

(a) Drafting of the Model Law over four sessions 2020-2021:

i. First session: 1-3 July 2020 (remote)
ii. Second session: 14–16 December 2020
iii. Third session: 26-28 May 2021
iv. Fourth session: second half of 2021

(b) Consultations and finalisation 2022

(c) Adoption by the Governing Council at its 102nd session in May 2023

II. CONTENT AND STRUCTURE OF THE MODEL LAW

H. Scope of the MLF

23. The previous Working Group meetings discussed, but did not settle, on whether the MLF should apply to negotiable instruments, or more narrowly to promissory notes. The Working Group noted that in many countries negotiable instruments are often used by factors to purchase receivables. Receivables arising under a contract are often incorporated into a negotiable instrument for the purpose of obtaining payment by way of summary proceedings in court or using criminal law sanctions for failure to discharge the instrument. Transfers of negotiable instruments are subject to a discrete set of rules and have caused a number of challenges in the development of receivables finance, as explained by the World Bank Group during the previous meeting.

24. The Receivables Convention applies to receivables embodied in negotiable instruments to the extent it does not affect the legal position of the parties to such assignments, through what is termed a "hold harmless clause."[6] The reason for this approach is that the law of negotiable instruments is distinct from the law of assignments of receivables. The UNCITRAL Model Law excludes from its definition of receivable "a right to payment evidenced by a negotiable instrument." The effect of this provision is to exclude all receivables in the form of negotiable instruments from the scope of the UNCITRAL Model Law's rules specific to receivables, including rights and obligations of debtors of the receivable as well as "anti-assignment clauses". The UNIDROIT Principles of International Commercial Contracts exclude the transfer of instruments from the scope of its section on the assignment of rights. This exclusion also applies to documents of title, such as bills of lading or warehouse receipts, and financial instruments such as stocks and bonds, which are all normally subject to specific rules. Parts of industry have expressed reservations with respect to including negotiable instruments within the MLF, as transactions with instruments are connected to regulated capital markets. They are often used for refinancing operations, which the MLF could not deal with it, so any additional layer of rules that would need to be introduced would not be complete. One global industry association prefers for the MLF to deal with "straightforward financing products" only.

<u>Question for the Working Group?</u>

- *Should the MLF apply to negotiable instruments?*

25. During the previous meeting, the Working Group agreed to discuss exclusions provided for under domestic factoring and similar legislation that applied to assignments of receivables. UCC Article 9, for instance, excludes an assignment of receivables for the purpose of collections only and outright assignment (sale) of receivables generated from the sale of a business. The Receivables Convention and the UNCITRAL Model Law do not provide for similar exclusions. While some of these transactions (e.g., a sale of receivables as part of the sale of a business) are not factoring transactions at all and the application of the MLF may be surprising to the parties (e.g., a registration may need to be made to render the transfer of receivables effective against third parties), others may benefit from some provisions of the MLF (e.g., assignments for collection).

<u>Questions for the Working Group:</u>

- *Should the MLF provide similar exclusions or a Guide to note that a State may consider some exclusions, explaining the reasons why an exclusion could be considered?*

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6 Article 4-4 provides "[n]othing in this Convention affects the rights and obligations of any person under the law governing negotiable instruments."

I. Anti-assignment clauses

26. During the previous meeting, the Working Group agreed that the MLF should incorporate the approach of the Receivables Convention with respect to anti-assignment clauses. However, the Working Group also agreed that such clauses would be ineffective rather than preserve the right of the debtor to claim damages from the transferor. The Working Group did not settle on several issues:

i. the scope of the anti-assignment override clauses,

ii. the effect of statutory restrictions on transfers of receivables, particularly arising from government contracts, and

iii. anti-assignments clauses in relation to "supporting rights".

27. With respect to the scope, paragraph (3) of Article 9 of the Receivables Convention applies to transfers of only the following types of receivables:

i. Arising from an original contract that is a contract for the supply or lease of goods or services other than financial services, a construction contract or a contract for the sale or lease of real property;

ii. Arising from an original contract for the sale, lease or licence of industrial or other intellectual property or of proprietary information;

iii. Representing the payment obligation for a credit card transaction; and

iv. Owed to the assignor upon net settlement of payments due pursuant to a netting agreement involving more than two parties.

28. The UNCITRAL Model Law's override clause is nearly identical to that found in the Receivables Convention.[7]

29. The Working Group discussed that following the approach of Article 9(3) would be unnecessary if the general scope of the MLF was confined to transfers arising from the sale and supply of goods and provision of services. The types of transfers of receivables covered in this article may be broader than those commonly used in factoring transactions, especially those arising from contracts for the sale or lease of real property or those resulting from the application of a netting agreement. Under an MLF with a narrower scope focused on common factoring transactions, a general anti-assignment clause would be sufficient. This is the approach of the UNIDROIT Factoring Convention. The Working Group may wish to consider this issue in the context of the scope of the MLF.

30. During the previous meeting, the Working Group agreed to pay additional consideration to statutory limitations on the transfer of receivables. Consumer protection laws would remain applicable, and may restrict the transferability of consumer receivables which would not be affected by the MLF. The drafters of the Receivables Convention left it to domestic law to determine whether an assignment of a receivable owed by a sovereign debtor is effective. Article 13 of the UNCITRAL Model Law takes a similar approach with respect to "sovereign receivables." In the domestic context, the issue of transferability of receivables comes up in government contracts, which may be subject to special rules. Regulations and other rules governing contracts with sovereign debtors may restrict

[7] The UNCITRAL Model Law Guide to Enactment states that the purpose of these provisions is to limit the scope of application of the override clause to transfers of "trade receivables."

transfers of receivables or impose certain conditions that may trump the otherwise applicable law (e.g., the sovereign debtor must be notified for the transfer to become effective against third parties).

Questions for the Working Group

- *Should the MLF stay silent on overriding statutory restrictions on assignments?*
- *Are there any receivables subject to statutory restrictions that would be attractive to factors if they could be transferred?*

31. The Working Group agreed that additional consideration should be given to a provision overriding the effect of an anti-assignment clause on rights supporting the payment of the receivable (supporting rights), highlighted in paragraph 30 of the Issues Paper for the previous meeting of the Working Group.[8] Supporting rights may be issued in various forms. The Receivables Convention distinguishes between "accessory" and "independent" rights. Accessory rights include suretyship, pledge and mortgage, which are transferred automatically, without a new act of transfer. Independent rights, on the other hand, include independent guarantees and stand-by letters of credit, which often require a new act of transfer. In cases where the applicable law requires a new act of transfer, the Receivables Convention provides in Article 10(1) that the "assignor is obliged to transfer such right and any proceeds to the assignee."

32. Factoring agreements typically provide that certain rights automatically benefit factors, including any property right in the sold goods, instruments taken by transferors in settlement of the receivable, insurance policies reinforcing the payment of receivables, guarantees and indemnities given by third parties, and similar. Except where the law requires a separate act to transfer the benefit of a supporting right (e.g., for a letter of credit), the UNCITRAL instruments provide for a transfer of the benefit in supporting rights whether or not the security agreement actually provides for such transfers. At times, the supporting rights may be issued subject to restrictions on their transfers. Article 10(2) of the Receivables Convention provides for an explicit override of any restriction on a transfer of a property or personal right securing payment of the assigned receivable. The combination of Articles 13 and 14 of the UNCITRAL Model Law achieves the same effect without an explicit provision.[12] The Working Group has decided to depart from the approach of the UNCITRAL instruments on the effect of breaching a contractual restriction on a transfer of a receivable, and to provide under the draft MLF that such a contractual restriction is wholly ineffective. A transfer of a supporting right despite a contractual restriction has the same effect under the UNCITRAL instruments as with respect to a transfer of a receivable i.e., the obligor may claim damages from the transferor.

Question for the Working Group:

- *The Working Group may wish to decide on the policy approach toward overriding any restrictions on transfers of "supporting rights", whether following the UNCITRAL instruments or the MLF approach for receivables.*

J. Future Receivables

33. During the last meeting, the Working Group agreed to explore further the meaning of "future receivables" and the use of this term in various provisions of the draft MLF. The Working Group

8 See Study LVIII A – W.G.2 – Doc. 2 Paragraph 30

identified two types of future receivables: i) arising out of an existing contract after its conclusion, and ii) arising out of a future contract.

34. The Receivables Convention defines a future receivable as "a receivable that arises after the conclusion of the contract of assignment." The distinction between existing and future receivables is based on the time of the conclusion of the contract of assignment. A receivable arising before or at the time of the contract of assignment, is classified as existing, even though it is not payable until a future date. The definition of future receivables covers a range of future receivables, including conditional receivables (that might arise subject to a future event) and receivables that might potentially arise from a future activity of the assignor.

35. Although the Receivables Convention makes a distinction between existing and future receivables, they are generally treated the same in its provisions. One of the reasons for distinguishing existing and future receivables was to override some limitations in domestic laws with respect to transfers of future receivables. To that end, there are some rules that apply only to future receivables. For instance, Article 8 provides that that the assignment of (multiple) future receivables may be achieved through a single act of transfer. Article 4 of the Annex to the Receivables Convention similarly provides that a single registration may cover multiple future receivables. The objective of these rules is to facilitate the financing of future receivables. Neither the UNCITRAL Model Law nor the UNIDROIT Factoring Convention provide a definition of future receivables. However, the UNICITRAL Model Law does provide a definition for "future assets,"[1] which would encompass future receivables.

36. In this respect, questions were raised as to how certain provisions of the MLF are to apply in the context of future receivables. For instance, Article 12 of the Receivables Convention provides for a number of representations of the assignor at the time of conclusion of the contract of assignment, including that the assignor has the power to assign the receivable. However, at the time of concluding the agreement of assignment, the assignor would not inevitably have any power to assign a receivable that is future i.e., it does not exist at that time. Rather, such representations with respect to future receivables are made at the time of a transfer. Another question related to the application of Article 16(2) of the Receivables Convention to notifications and payment instructions with respect to future receivables. It was noted that this article was designed to apply to future receivables of both types, but, as a practical matter, a factor would provide a notification of a transfer of receivables arising out of a future contract after that contract has been entered into or once those receivables actually arise. In this context, it may be noted that the Receivables Convention does not provide a definition of the debtor of the receivable, which is defined in the UNCITRAL Model Law as "a person that owes payment of a receivable subject to a security right". At the time of notification when there is no contract that would generate receivables, the notification would appear to be ineffective as the person is not a debtor at that time. Once the person becomes the debtor, it may be given an effective notification with respect to existing and future receivables.

<u>Questions for the Working Group:</u>

- *Should the MLF follow the approach of the Receivables Convention with respect to future receivables, i.e. include a definition of future receivables?*
- *Would including a definition of debtor of the receivable along the lines of the UNCITRAL Model Law clarify the application of some MLF provisions to the two types of future receivables?*

K. Registration

37. During the previous meeting, the Working Group agreed to include guidance on a registry system within the MLF, and that the five points mentioned in paragraph 35 of the Issues Paper[9] were important to include. They were:

i. any person may register data (notice) that identifies the transferor and transferee, and provides a "brief description" of the receivables;

ii. a single registration may cover one or more transfers;

iii. a registration may be made in advance of the transfer to which it relates;

iv. a registration is effective from the time the data is available to searchers; and

v. any omission or error in the identifier of the transferor that would result in the registered notice not being found in a search against the correct identifier of the transferor renders the registration ineffective.

38. The Working Group agreed that additional consideration should be given to how detailed this guidance should be, keeping in mind the existence of existing documentation on registry design.

39. As noted in the Issues Paper for the previous Working Group meeting, there are at least three categories of enacting States that may need guidance on different registration aspects.[10] One is a State that has not established any registration system relating to transfers of receivables (e.g., Somalia). The other is a State that has a registry but, in several aspects, it departs from the UNCITRAL Model Law and the Registry Guide (e.g., Belarus and Paraguay). Finally, there is a State that has a fully functional and electronic registry (e.g., Jordan and Palestine). Depending on the existing legal framework, States may need more or less guidance on the registration aspects. The five issues identified above may need to be reflected in the MLF, while operational issues would be dealt with in the regulations. In addition to those five issues, the MLF may include provisions that signal how some other fundamental policy choices should be resolved. For instance, Articles 6 and 7 of the Registry Provisions of the UNCITRAL Model Law limit the function of a registry to performing administrative tasks that do not entail substantive verification of the registration data. The first issue from the list in the preceding paragraph could also be fleshed out in more detail to clearly provide that the registry records notices rather than factoring agreements or individual invoices, as suggested in a number of recent domestic reforms. Finally, the MLF may also include a provision governing registry fees sending a signal that these should not be excessive, especially if calculated as a percentage of the face amount of a receivable or credit extended to the transferor.

<u>Questions for the Working Group:</u>

- *In addition to the five issues that the Working Group agreed for the MLF to cover, should the three issues of i) the registry not performing any substantive verification of information; ii) registration of notices as opposed to agreements or invoices; and iii) reasonable fees be also addressed in the MLF through a specific rule?*

- *Are there any other issues that the MLF should address in the form of a rule or is it sufficient for additional guidance to be included in the accompanying guide that will reference the UNCITRAL instruments?*

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9 See Study LVIII A – W.G.2 – Doc. 2 Paragraph 35

10 See Study LVIII A – W.G.2 – Doc. 2 Section I

L. Debtor discharge by payment

40. During the previous meeting, the Working Group discussed the rules that govern discharge of a debtor, focusing on Article 17 of the Receivables Convention. Several suggestions were made, including to assess:

i. whether all the paragraphs are appropriate for the MLF as they may relate to international receivables/assignments,

ii. the meaning of notification of a "subsequent assignment" in paragraph (5), and

iii. how the notification of a transfer should operate with respect to future receivables that have not yet arisen.

The Working Group decided to discuss these issues further at its next meeting.

41. It appears that all the elements covered by Article 17 of the Receivables Convention, as reflected in Article 63 of the UNCITRAL Model Law, are appropriate for inclusion in the MLF, as none of them concerns solely international assignments or international receivables. The provisions apply irrespective of whether the debtor of a receivable is located in the same jurisdiction as the transferor or the transferee. However, the agreement under which the receivable arises may be subject to a foreign law, which will govern the rights and obligations of the debtor vis-à-vis the transferee, including whether the debtor obtains discharge. This aspect is addressed in the conflict-of-laws rules proposed for inclusion in the MLF.

42. The Guide to Enactment to the UNCITRAL Model Law provides examples with respect to the situations covered by Article 63, distinguishing between

i. multiple payment instructions (the debtor obtains discharge by paying pursuant to the last instruction before payment is effectuated);

ii. multiple notifications of transfers of the same receivable by the same transferor (the debtor obtains discharge by paying pursuant to the first notification); and

iii. multiple notifications of successive transfers of the same receivable (the debtor obtains discharge by paying pursuant to the last notification).

43. While the last situation where the same receivable is transferred multiple times is common in international factoring, in practice, the debtor receives only a single notification of transfer. The debtor of a receivable needs to be able to distinguish between situation 2 and 3 to obtain discharge. The different approach in these two situations is based on an assumption as to which transferee is likely to have priority or be entitled to claim payment. Paragraph (8) assists the debtor in determining whom it should pay by entitling the debtor to request a reasonable proof of transfer when a notification is received from the secured creditor/transferee. In a series of successive transfers, one person may act as both transferor and transferee, such as where Person A initially acquires a receivable but then transfers it to Person B. After the transfer, Person A's status changes from transferee to transferor. Paragraph (8) entitles the debtor of a receivable to request proof if a notification is received from a secured creditor/transferee, which should be equally applicable in situation 3 where the debtor receives a notification from Person A.

44. As noted above[11], there are two types of future receivables. A query was raised as to whether the discharge article could equally apply to both types of future receivables. For instance, Article 63(1) of the UNCITRAL Model Law requires the debtor to pay pursuant to an original agreement until it receives a notification of transfer. Hypothetically, a debtor might receive a notification with respect to the second type of future receivables. For such a notification to be effective, it would have to meet the content requirements, including a reasonable identification of the receivables, which may be complicated if the agreement under which those receivables may arise in the future has not been entered into.

Questions for the Working Group:

- *The Working Group may wish to confirm that all paragraphs included in Article 17 of the Receivables Convention and Article 63 of the UNCITRAL Model Law are appropriate for inclusion in the MLF as they do not solely concern international receivables/assignments?*
- *Should the debtor be entitled to request reasonable proof of transfer when a notification is received from a person other than a party to the original contract under which the receivable arises? If so, does the wording of Article 63(8) of the UNCITRAL Model Law reflect that intention?*
- *Reviewing the relevant draft MLF provision, should some changes be made to further clarify the distinction between situations 2 and 3, or is the language adequate in light of the practice that these situations cover?*
- *Should any drafting changes be introduced to clarify how the provision applies to the two types of future receivables?*

M. Notification

45. During the previous meeting, the Working Group discussed various aspects of providing a notification of transfer to the debtor of a receivable. The Working Group also agreed that the MLF should clearly spell out who is entitled to receive a notification, and that a notification may be provided electronically. The Working Group had agreed to give further consideration to different modes and mechanisms for issuing notifications, the content of a notification as well as the situation when the debtor of a receivable in good faith pays the transferor. The Working Group noted that these aspects could potentially be addressed in the Guide to Enactment.

46. It is expected that the MLF would recognise the established principle of technology neutrality that would apply throughout the MLF to enable actions that may be taken by one of the parties to be implemented electronically or through exchange of written (paper) records. Accordingly, a notification of transfer could be given electronically or by some other means, such as stamping a notice of transfer on a paper invoice. The modes and mechanisms for providing the notification are not prescribed in either the Receivables Convention or the UNCITRAL Model Law, but may be set out in the agreement from which the receivable arises. These international standards do not govern the sale and service agreements pursuant to which the receivable is generated, and these agreements may provide for the mode and form in which a notification may be provided.

47. The content of a notification is one of the elements of its effectiveness. For instance, under Article 62 of the UNCITRAL Model Law, a notification is not effective unless it reasonably identifies the secured creditor and the receivables, and it is in a language that is reasonably expected to inform

[11] See Section J.

the debtor of its contents, which would include the language of the contract giving rise to the receivable. A notification may thus relate to a single or multiple receivables that may be described specifically or by a reference to "all receivables owed to ABC". A notification need not be labelled as such as long as it provides the necessary information indicating that receivables have been transferred. The question of what constitutes a reasonable description of receivables is not left to the discretion of the debtor who, when in doubt, may request further information regarding the receivables payable to the transferee.

48. The UNCITRAL instruments require receipt of the notification by the debtor for it to become effective, including to affect the debtor's right to receive a discharge. If a debtor in good faith pays the transferor, in ignorance of the received notification, it is not discharged. If the debtor has some knowledge of a transfer but has not received any notification, it may continue paying the transferor and obtain discharge. Knowledge of some facts beyond the notification and acting on those facts in good faith would not discharge the debtor of a receivable. Conditioning the payment of a receivable on receiving an effective notification, regardless of notice of some other facts relevant to the transaction, reduces the risk of disputes as to what the debtor actually knew and whether it acted in good faith.

49. Following the UNCITRAL standards, the MLF would not restrict the ability of the debtor of a receivable to prove that its payment to the transferor discharged its obligation if the notification has not been received or its content does not satisfy the minimal requirements. The debtor may prove that the content of the notification was so ambiguous as to create a reasonable doubt whether, for instance, the notification also affected future receivables. Other issues that bear on the effectiveness of a notification, such as whether it was received by an authorised employee of the debtor of a receivable, should remain outside the MLF consistent with the UNCITRAL standards (e.g., applicable domestic laws may define when a notification is effectively received). If the debtor receives a notification, but it is uncertain whether to pay a transferee, it is entitled to request reasonable proof of transfer.

<u>Questions for the Working Group:</u>

- *Should the MLF include some provisions, such as safe harbours for the mechanisms to deliver notifications to the debtor of a receivable?*
- *Should the MLF introduce an additional exception to discharge the debtor who in good faith pays the transferor after receipt of a notification?*

N. Payment instruction

50. The notification of transfer may, but need not include payment instructions to the debtor of a receivable who may be notified that a receivable has been transferred, but the transferor would continue collecting payments. Alternatively, the transferee may decide to collect payments directly in which case it would instruct the debtor accordingly, either in the notification or separately in a payment instruction. The UNCITRAL Model Law, in Article 62, prescribes the minimal content requirements for a payment instruction consistently with a notification of a transfer. However, for a payment instruction to fulfil its purpose, it must also provide the information necessary for the debtor of a receivable to effectuate payment. Article 61(2) states which aspects of the payment obligation an instruction may (e.g., a deposit account to which payment must be made) and may not change (e.g., the currency of payment). Receipt of a payment instruction affects the debtor's discharge, so it should contain the information that is relevant to effectuate payment, including a demand to make payment(s) to a particular deposit account. Though assessing the sufficiency of a payment instruction is fact-oriented, the MLF may clarify whether Article 62 provides all the necessary elements for an effective payment instruction.

Questions to the Working Group:

- *Should the MLF follow the approach of Article 62 of the UNCITRAL Model Law that prescribes the same minimal requirements for an effective payment instruction and a notification of a transfer, or clarify that the elements necessary for the debtor to effectuate payment, such as those reflected in Article 61(2), are the minimal requirements for an effective payment instruction?*

- *Should the MLF avoid referring to currency, money and similar concepts that may suggest that a receivable may not be "denominated" in legal tender or money, as defined in the applicable law?*

O. Waiver and defences

51. During the previous meeting, the Working Group discussed whether the MLF should preclude a waiver of debtor's defences beyond those set out in Article 19(2) of the Receivables Convention.[12] Under that provision, the debtor may not waive defences i) arising from fraudulent acts of the assignee; and ii) based on its incapacity. These two defences are designated as non-waivable in Article 65(3) of the UNCITRAL Model Law as well. This approach mirrors the unenforceability of a negotiable instrument against an obligor who may assert a "real defence", such as under Article 30 of the UN Convention on International Bills of Exchange and International Promissory Notes. However, the 2016 UNIDROIT Principles of International Commercial Contracts (see Article 3.1.4) allow a party to a contract entitled to its avoidance for fraud to waive it. The MLF will be subject to overriding consumer protection laws that may further limit the types of defences that a consumer debtor may be able to waive.

Question to the Working Group:

- *Does Article 19(2) of the Receivables Convention strike a proper balance, taking into account the principles of contract law with respect to waivers and the application of laws protecting consumer debtors of receivables?*

- *If not, what additional defences should a debtor of the receivable, that is not a consumer, not be able to waive be included in the MLF?*

P. Extra-judicial remedies

52. During the previous meeting, the Working Group agreed that further consideration should be given to Articles 78 and 79 of the UNCITRAL Model Law that may need to be adapted for the purpose of the MLF. These two articles cover disposition of the collateral and distribution of proceeds. Paragraph 62 of the Issues Paper for the previous meeting of the Working Group[13] only noted that international standards provide for disposal of the collateral, which may also be applicable to receivables. The Working Group generally agreed that provisions along those lines may need to be included in the MLF. The draft MLF contains preliminary provisions that adapt these articles for the purpose of the MLF.[14] The draft contains explanations as to how those articles have been adapted (e.g., not referring to license or lease of a receivable), and provides further suggestions for consideration (e.g., to simplify the drafting that would not refer to "judicial enforcement" in a number of provisions). Similarly, the Working Group agreed that further consideration should be given to

[12] See Paragraph 150 of UNIDROIT 2021 – Study LVIII A – W.G.2 – Doc. 4

[13] See Study LVIII A – W.G.2 – Doc. 2 Paragraph 62

[14] See UNIDROIT 2021 – Study LVIII A – W.G.3 – Doc. 3 Page 39-43

adapting Article 72 of the UNCITRAL Model Law to the MLF, which was included in the draft with some questions to the Working Group.[15]

53. The Working Group may also wish to consider whether the Guide should explain the effect of a junior transferee collecting receivables. Unlike for other collateral, such as equipment when the junior secured creditor disposes of it, the senior security right continues, when a junior transferee collects the receivables there is no outstanding obligations for the senior transferee to enforce anymore. Then, the question is which of the two transferees has a superior claim to the proceeds. A general secured transactions law provides for a comprehensive priority system for allocating priorities in these situations where the junior transferee may have priority, for instance, when it has a security right in a bank account where the collections have been deposited.

Question to the Working Group:

- *The Working Group may wish to consider whether the legal consequences of a junior factor collecting receivables should be addressed in the Guide.*

Q. Conflict of laws issues

54. During the previous meeting, the Working Group considered a number of conflict of laws suggestions formulated by the sub-group. It was noted that the Working Group may wish to give further consideration to the suggested provision that would preserve the third-party effectiveness of a transfer upon relocation of the transferor to another State. The corresponding Article 23 of the UNCITRAL Model Law was included in the table on pages 22-23 of the Issues Paper for the previous meeting.[16] This article covers a situation where the law of a State that enacted the UNCITRAL Model Law becomes applicable to third-party effectiveness, which may occur upon change in the connecting factor as a result of relocation of the grantor or encumbered asset. The table noted that this provision would be adapted for the purpose of the MLF to apply only when the location of the transferor changes. If the transferee takes an action within the grace period after relocation, the third-party effectiveness would be preserved.

55. A draft provision reflecting these principles has been included in the draft, as Article 12 in Chapter III, for consideration by the Working Group.[17]

Question for the Working Group:

- *The Working Group may wish to confirm that a provision covering this issue is appropriate for inclusion in the MLF, and that the text of Article 23 should be adapted to apply in the circumstances where the transferor's location changes.*

R. Insolvency

56. During the second meeting, the Working Group requested some background information to consider several issues relating to the impact of insolvency on transfers of receivables. The UNCITRAL Model Law in Article 35 preserves the effectiveness and priority of a security right in insolvency, subject to the applicable insolvency law that may provide priority to another claimant. This article does not interfere with the applicable insolvency law, including the powers that an insolvency

15 See UNIDROIT 2021 – Study LVIII A – W.G.3 – Doc. 3 Page 44

16 See Study LVIII A – W.G.2 – Doc. 2 Page 22-23

17 See UNIDROIT 2021 – Study LVIII A – W.G.3 – Doc. 3 Page 23

administrator may exercise to avoid the effectiveness of a security right, as a preferential or fraudulent transfer. This article is complemented by Article 94 pursuant to which the insolvency court must respect the law applicable to security rights under its conflict-of-laws rules. The UNCITRAL secured transactions instruments do not deal with other aspects of insolvency law. Accordingly, a transfer of a receivable, whether outright or in security, will be protected in insolvency if the requirements of third-party effectiveness under the applicable factoring law have been satisfied.

57. UNCITRAL Insolvency Guide deals with other aspects of insolvency law impacting security rights. For instance, it discusses the extent to which assets belonging to the insolvent debtor subject to a security right belong to the estate, or, instead, ought to be treated as "third-party assets" that should be generally excluded from the estate, although subject to exceptions, as where they are necessary to an effective reorganisation. Unless an outright transfer is recharacterised as a security transfer, the transferred receivables would not be included in the estate. In some jurisdictions, receivables acquired by a transferee other than by an outright transfer (e.g., through an ownership fiduciary transfer under Mexican law) may not become part of the estate. However, these are country-specific approaches to insolvency that may be beyond the scope of this project. A transferee's rights to proceeds of the receivables transferred and made effective against third parties prior to insolvency should be recognised. In some jurisdictions, any receivables that arise post-petition are deemed to belong to the estate free of a right of a transferee, regardless of whether the transfer agreement covers future receivables; in other jurisdictions, the solution is more nuanced, as when future receivables are excluded from the estate (or subject to a security right in favour of the transferee/assignee) if they arise post commencement but as a consequence of a legal relationship which existed before the opening of insolvency proceedings. All these issues, including the use of receivables by the insolvency administrator (to facilitate reorganisation subject to providing adequate protection to a transferee) are matters of insolvency law.

Question for the Working Group:

- *Should any of these or other matters of insolvency law be covered in the MLF or mentioned in the Guide to Enactment?*

S. Transition

58. The introduction of a new factoring regime is likely to require changes in the existing legislation to properly integrate the new regime, whether it was enacted as part of a general code or a standalone statute. This inevitably affects outstanding factoring transactions and transfers of receivables. The effect may vary depending on the existing legislation. On the one hand, for some States that have already enacted a functioning secured transactions law in line with the UNCITRAL standards where the main purpose of the new factoring regime is to supplement and clarify the application of the general rules, the transitional issues may be minimal. For instance, the existing secured transactions law may already require registration of a notice to achieve third-party effectiveness for a transfer of receivables, and the new factoring regime provides guidance primarily with respect to contractual rights and obligations. This would thus differ from the impact of implementing the UNCITRAL Model Law that was designed as a comprehensive piece of legislation to replace the existing regime wholesale. On the other hand, a new factoring regime may be implemented in a State where transfers of receivables are effective against third parties upon notification of the debtor of the receivable. The entry into force of the new factoring regime would have a dramatic impact on the rights, but also practices of factors.

59. A seamless transition first requires the State to ensure that any existing legislation is coordinated with the new factoring regime. This may be done either through general clauses that dis-apply any inconsistent provisions of the existing legislation or expressly stating which provisions are abrogated. These are largely matters of domestic legislative drafting conventions.

Question for the Working Group:

- *Should the MLF follow the general approach of the UNCITRAL Model Law highlighting the need to ensure a seamless transition or provide more guidance as to how that transition should be accomplished?*

60. Given the different legislative drafting techniques and adoption mechanisms in States, the UNCITRAL Model Law does not prescribe how and when a law should be brought into force, whether by specifying a date or a mechanism to doing so. If the new factoring regime provides for the establishment of a registry, it should not be brought into force until the registry is operational. The length of time between its enactment and entry into force depends on several considerations that balance the desire to make the new regime applicable as soon as practicable with the need to educate affected market participants, primarily factors, on the changes introduced in the new regime that affect their practices, especially on the use of a new registration system.

Question for the Working Group:

- *Should the MLF follow the general approach of the UNCITRAL Model Law in deferring to the local conventions that determine how a law is brought into force? The Guide to Enactment would then highlight the key considerations to determine the appropriate length of time between enactment and entry into force.*

61. The entry into force of a new factoring regime will inevitably affect the rights of factors under existing factoring transactions. Factors should be given time, after entry into force, to conform their transactions to the requirements of the new regime, including to effectuate registrations where previously the law did not condition the effectiveness of a transfer on registration. The length of this transitional period will depend on several aspects, including the time leading to the entry into force of the new law. Several other aspects of the transitional period, including the continuity of third-party effectiveness and priority of a security right are addressed in Article 105 of the UNCITRAL Model Law.

Question for the Working Group:

- *Should the MLF substantially incorporate the provisions of Article 105 of the UNCITRAL Model Law setting out the various legal effects of taking an action or the failure to take an action on "prior transfers"?*

62. The UNCITRAL Model Law comprehensively governs all aspects of transitioning security rights into the new regime, including the effect of this regime on the creation of a prior security right, its priority against competing claimants, and the application of the law to judicial proceedings. Some of these provisions may have less relevance for a factoring regime, such as Article 103(2) under which enforcement may continue under prior or new law. The most common method of enforcing the right of a factor is the collection of a receivable where the requirements of collection are not likely to materially differ between the two regimes (though, the prior regime might not have contemplated sale or other disposal of receivables). Other provisions might be redundant, such as where the requirements of creation under the prior law would be sufficient for the transfer to be recognised as effective between the two parties even if the requirements of the new factoring regime have not been met. This rule would be redundant in those States that enact the new factoring regime to supplement and clarify the application of their secured transactions laws, where those laws are already substantively similar to the UNCITRAL Model Law. Furthermore, even in those States that have not reformed their secured transactions framework, the requirements for the transfer of a receivable to become effective as between the transferor and transferee are likely to be more

stringent and thus should satisfy the requirement of the new factoring regime. Given the variety of domestic laws that are likely to benefit from the new factoring regime, some of these transitional rules may be redundant or wholly inapplicable.

Question for the Working Group:

- *Should the MLF incorporate the provisions of Articles 103, 104 and 106 of the UNCITRAL Model Law that deal with these matters? Or, alternatively, the State may be referred to the relevant provisions of the UNCITRAL Model Law and its Guide to Enactment for guidance on how to handle these matters*.

T. Factoring Regulation

63. During its previous meetings, the Working Group referred to regulation in several instances, but without specifying which specific regulatory rules apply to factoring activities, and how. The purpose of this section is to provide background information on the nature of regulation that is necessary for the deployment of factoring products. Several projects to enact new factoring laws in developing economies (e.g., Georgia, UAE, and others) take into account regulation, and even include regulatory rules within factoring laws. The lack of clarity with respect to which regulation applies to factoring activities and how has become a roadblock in the deployment of factoring products.

64. Albeit industry standards and international best practices have been established, the regulatory governance of factoring activities and entities largely remains a domestic endeavour. In such a fragmented system, domestic policymakers have adopted a variety of regulatory approaches. In some cases, factoring has been labelled as an "unregulated activity", which may be misleading. Qualifying factoring as an unregulated activity might indicate that factoring can be offered by non-bank financial institutions (NBFIs) without obtaining a specific authorisation, such as a factoring license. In these instances, however, factoring companies might still need to be registered as commercial companies and compliance with some regulatory standards might be required. Moreover, if factoring activities are offered by regulated financial institutions, they are regulated under existing regimes. Hence, in any given jurisdiction, the complete lack of any form of regulation for factoring might ultimately flag the existence of gaps in the domestic regulatory framework for financial services, as financing arrangements can be offered to the public without any basic form of control.

65. Provided that there are no significant gaps in domestic legal systems, factoring activities and entities may fall within the regulatory perimeter of financial regulation in different ways. First, at the most basic level, even when factoring entities are not subjected to specific licensing requirements, different regulatory standards might be applicable. Typically, domestic conduct of business regulation, aimed at protecting customers and ensuring market integrity, might apply. Most notably, anti-money laundering (AML) regulation and auditing requirements are commonly established for any type of financial institution. In addition, self-regulatory regimes are common in markets where factoring is developed. Domestic and international associations, such as the Factors Chain International (FCI) and the International Chamber of Commerce (ICC),[18] set industry-wide practices designed to protect the reputation of the industry and promote its sound development.

66. Second and more commonly, factoring is considered a regulated activity that can be offered by financial institutions. In some jurisdictions, factoring is specifically listed amongst the activities that regulated credit institutions – such as banks and NBFIs – are authorised to offer. In these instances, legislation, such as domestic banking laws, or administrative acts, enacted by regulatory authorities under general delegation mechanisms, refer to factoring as one of the regulated financial

[18] Other associations are also very active in setting standards for the industry. See for example the Secured Finance Network (formerly the Commercial Finance Association) and the World of Open Account (WOA).

services that regulated financial institutions may offer under their license. Hence, as the regulatory regimes applicable to such entities are extended when factoring products are offered, an articulated set of conduct of business rules and prudential requirements is normally applied.

67. Third, a growing number of jurisdictions is considering factoring as a regulated activity that can be offered under a special licensing regime. Typically, a specialised factoring law, or another legislative act, establishes the essential regulatory requirements for factoring companies. Specifically, a mandatory requirement to obtain a factoring license is established for any entity seeking to engage in factoring activities. Licensing and supervisory functions are allocated to one of the domestic financial regulators. Fundamental licensing requirements as well as basic conduct of business and prudential standards are also established in legislation. Delegation mechanisms are provided for to entrust the licensing authority with the power to adopt more detailed standards. In general, this approach allows the implementation of a more streamlined regulatory regime for factoring companies. However, where a prohibition to engage in factoring activities is established, coordination with existing licensing regimes for banks is necessary.

68. Depending on the regulatory approach that includes factoring activities within the regulatory perimeter, specific challenges emerge. When factoring is listed as one of the activities that regulated entities can offer, the applicable regulatory regimes for such entities are generally straightforward. A bank or a NBFI engaging in receivable finance, in fact, must comply with all prudential and conduct of business requirements that normally apply to banks and NBFIs. However, it might be uncertain whether an unlicensed financial institution can engage in factoring activities without any license. Without clear regulatory guidance, factoring companies might be established, but the potential growth of the industry is limited. In a similar vein, while a specialised factoring law may clarify important private law elements, regulatory and supervisory ambiguities may persist. Without a specific licensing regime for factoring companies, offering factoring products may trigger compliance risks. For these reasons, in mature markets, financial institutions engaging in factoring tend to prefer a clear licensing regime that avoids ambiguities.

69. Absent international guidance on the core regulatory elements for factoring activities, uncertainties often emerge also when specialised licensing regimes have been established. This typically occurs when coordination between legal and regulatory elements is lacking or inadequate. In particular, a series of issues have been observed in different jurisdictions. The most common are: (i) lack of clarity on the legal consequences of losing a factoring license; (ii) uncertainty on whether banks can engage in factoring activities under their banking license, or whether they should obtain a new license; and (iii) jurisdictional conflicts may arise if multiple supervisory authorities co-exist and supervisory responsibilities over factoring activities have not been clearly allocated.

70. In light of these considerations, law reform projects aimed to promote access to credit through factoring have been addressing fundamental regulatory issues. The implementation of a private law framework governing factoring transactions has been paired with the implementation of core regulatory provisions. Specifically, either within domestic factoring laws or through other legislation, the following elements are typically covered in the factoring regulatory framework:

71. Licensing and Supervision. Factoring is defined as a regulated activity that requires prior authorisation. A new licensing regime is established for factoring companies and coordination with existing licensing requirements for banks is ensured. Licensing powers and supervisory functions are clearly allocated and coordinated between existing supervisory authorities.

72. Prudential Regulation. A simplified and sound set of prudential requirements is established for factoring companies. These typically entail provisioning allowances, based on applicable accounting standards, minimum capital requirements, and systems of risk controls. The supervisory authority is delegated the powers to issue more detailed regulations.

73. Conduct of Business Regulation. The core elements of a conduct of business regulation that factoring companies should implement are established. These normally require fit and propriety standards for senior managers, a system to handle complaints, auditing requirements, and the application of general AML regulation. Detailed rules for licensing requirements and prudential standards are then established.

74. Addressing these aspects is key to establishing a cohesive regulatory framework for factoring activities and companies. Their inclusion in a specialised factoring law is the most straightforward way to achieve such a result and ensure clarity and legal certainty. This approach expects the factoring law to set minimum standards and empower supervisors with the tools to provide details without imposing disproportionate regulatory requirements. Regulatory authorities should be given leeway to adapt prudential and conduct requirements to evolving economic circumstances.

ANNEX I

ADDITIONAL RESOURCES

UNIDROIT Instruments

UNIDROIT, UNIDROIT Convention on International Factoring (1988)
https://www.unidroit.org/english/conventions/1988factoring/convention-factoring1988.pdf

UNIDROIT, Explanatory Note on the Factoring Convention (2011)
https://www.unidroit.org/explanatory-report-factoring-1988

UNIDROIT, UNIDROIT Model Law on Leasing (2008)
https://www.unidroit.org/english/documents/2008/study59a/s-59a-17-e.pdf

UNIDROIT, Official Commentary to the UNIDROIT Model Law on Leasing (2010)
https://www.unidroit.org/explanatory-model-law-leasing-2008/english

UNCITRAL Instruments

UNCITRAL, United Nations Convention on the Assignment of Receivables in International Trade (2001) https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/ctc-assignment-convention-e.pdf

UNCITRAL, UNCITRAL Legislative Guide on Secured Transactions (2007)
https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/09-82670_ebook-guide_09-04-10english.pdf

UNCITRAL, Supplement on Security Rights in Intellectual Property (2010)
https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/10-57126_ebook_suppl_sr_ip.pdf

UNCITRAL, UNCITRAL Guide on the Implementation of a Security Rights Registry (2013)
https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/security-rights-registry-guide-e.pdf

UNCITRAL, UNCITRAL Model Law on Secured Transactions (2016)
https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/19-08779_e_ebook.pdf

UNCITRAL, UNCITRAL Model Law on Secured Transactions: Guide to Enactment (2017)
https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/mlst_guide_to_enactment_e.pdf

UNCITRAL, UNCITRAL Practice Guide to the Model Law on Secured Transactions (2019)
https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/19-10910_e.pdf

UNCITRAL, HCCH and UNIDROIT, UNCITRAL, Hague Conference and UNIDROIT Texts on Security Interests (2012) https://www.unidroit.org/english/publications/joint/securityinterests-e.pdf

Other Instruments

AFREXIMBANK, AFREXIMBANK Model Law on Factoring (2016) https://s3-eu-west-1.amazonaws.com/demo2.opus.ee/afrexim/Model-Law-on-Factoring.pdf

FCI, Factoring Model Law (2014) file:///C:/Users/wbryd/OneDrive/UNIDROIT/Factoring%20Model%20Law/model-factoring-law-cv-140221.pdf

Global SCF Forum, Standard Definitions for Techniques of Supply Chain Finance (2016) https://iccwbo.org/content/uploads/sites/3/2017/01/ICC-Standard-Definitions-for-Techniques-of-Supply-Chain-Finance-Global-SCF-Forum-2016.pdf

OAS, Model Inter-American Law on Secured Transactions (2002) https://www.oas.org/dil/Model_Law_on_Secured_Transactions.pdf