



GOVERNING COUNCIL
99th session (B)
Rome, 23-25 September 2020

EN

UNIDROIT 2020
C.D. (99) B.7
Original: English
August 2020

Item No. 5 on the agenda: Model Law on Warehouse Receipts

(prepared by the Secretariat)

<i>Summary</i>	<i>Update on the preparatory work for a future Model Law on Warehouse Receipts Project</i>
<i>Action to be taken</i>	<i>Note the preparatory work undertaken since the remote meeting of the 99th Governing Council session in April/May 2020</i>
<i>Related documents</i>	UNIDROIT 2020 - C.D. (99) A.8 ; UNIDROIT 2020 - C.D. (99) A.2

I. INTRODUCTION

1. The purpose of this document is to update the members of the Governing Council on the preparatory work undertaken by the Secretariat in relation to the planned legislative work on Warehouse Receipts since the remote meeting of the Governing Council at its 99th session in April/May 2020.

II. BACKGROUND

2. Pursuant to a proposal by the Secretariat to the Governing Council at its 99th remote meeting in April/May 2020, the Council unanimously agreed to recommend that the General Assembly include the drafting, jointly with UNCITRAL, of a legislative text, possibly in the form of a Model Law, on Warehouse Receipts as a new project with high priority status in the 2020-2022 Work Programme, subject to approval of a parallel mandate by UNCITRAL's Commission ([UNIDROIT 2020 - C.D. \(99\) A.8, para. 21](#)). The scope of the project as proposed by the two organisations would encompass the possible development of a Model Law on the private law aspects of warehouse receipts.

3. The project would be a joint UNIDROIT/UNCITRAL project consisting of two phases. First, UNIDROIT would lead the joint preparatory work through a UNIDROIT Working Group that would develop a first comprehensive draft for international legislative guidance on warehouse receipts, possibly in the form of a model law,¹ over the period 2020-2022. Once the UNIDROIT Working Group has completed the proposed Model Law, the instrument would be submitted for intergovernmental negotiations through an UNCITRAL Working Group.

¹ It should be noted that, while the Secretariats of both UNCITRAL and UNIDROIT consider that the most useful final product would be a model law, it is UNCITRAL's practice to defer the final decision on the form of an instrument to its Member States.

4. A project proposal consistent with the one submitted to the Governing Council in document [C.D. \(99\) A.2](#) will be submitted by the UNCITRAL Secretariat to the Commission at its 53rd session in September 2020 for approval ([A/CN.9/1014](#)). Governing Council members will be instantly informed of the Commission's approval process. In the meantime, work conducted by UNIDROIT has been -and will continue to be- purely preparatory in nature. No funds have been -or will be- allocated to the project until it is approved by the Governing Bodies of both institutions.

III. REVISED TIMELINE FOR THE PROJECT

5. Due to the postponement of UNCITRAL's Commission to September 2020, the timeline proposed to the Governing Council in document [UNIDROIT 2020- C.D. \(99\) A.2, para. 28](#) has had to be revised. The following would remain a tentative calendar, the effective execution of which may be affected by the evolution of the current volatile international context:

- i. Remote meeting of an initial, core group of experts that will conduct preparatory work until the project is approved by UNCITRAL's Commission.
- ii. Preparation of the first draft for the proposed Model Law over four in-person sessions 2020-2021
 - a. First session: Autumn 2020
 - b. Second session: first half of 2021
 - c. Third session: early second half of 2021
 - d. Fourth session: late in 2021 or early in 2022
 - e. It is envisaged that remote meetings may be conducted when deemed necessary, in between in-person sessions. Given the extraordinary circumstances, one or more of the in-person meetings may be replaced by remote webinars.
- iii. Consultations and finalisation: first half of 2022
- iv. Adoption by the Governing Council of the complete draft to be sent to UNCITRAL at its 101st session in May 2022

6. It should be noted, however, that the tentative dates may possibly need to be further reconsidered in light of the postponement of UNCITRAL's Commission until after the summer 2020, as well as of the evolution of the international health crisis, which hampers travel, hinders the effective implementation of certain types of collaboration and obstructs access to relevant data and information.

IV. PREPARATORY WORK

7. In accordance with the project proposal submitted to the Governing Council at its 99th remote meeting in April/May 2020, the Secretariat has been conducting purely preparatory work, identifying experts who could be invited to participate in a future Working Group and planning the preparation prior to the first Working Group meeting.

8. As consistent with the Institute's established working methodology, the Model Law would be developed by a Working Group composed of international legal experts representing different legal systems and geographical regions, chaired by a member of the Governing Council.

9. The following experts have been identified as potential members of a future Working Group:
- i. Eugenia Dacoronia, Professor, University of Athens (Greece) (Chair)
 - ii. Nicholas Budd, International Expert, former partner at White and Case and Dentons (United States)
 - iii. Adam Gross, Director, Darhei Noam Limited (United Kingdom)
 - iv. Keith Mukami, Director, Head of Africa: Banking & Regulatory, CMS-RM Partners (South Africa)
 - v. Dora Neo, Associate Professor, National University of Singapore (Singapore)
 - vi. Jean-François Riffard, Professor, University Clermont Auvergne (France)
 - vii. Teresa Rodriguez De Las Heras Ballell, Associate Professor of Commercial Law, Universidad Carlos III de Madrid (Spain)
 - viii. Hiroo Sono, Professor of Law, University of Hokkaido (Japan)
 - ix. Andrea Tosato, Assistant Professor of Commercial Law, University of Nottingham (United Kingdom); Lecturer in Law, University of Pennsylvania (USA)
10. The following parties could be invited to participate as observers:
- i. FAO (Carmen Bullon, Legal Officer) (Italy)
 - ii. FAO (Frank Hollinger, Economist) (Turkey)
 - iii. IFAD (Michael Hamp, Lead Technical Specialist, Inclusive Rural Financial Services) (Italy)
 - iv. Kozolchyck National Law Center (Marek Dubovek, Executive Director, United States)
 - v. World Bank Group (Jean Saint-Geours, Senior Economist) (United States)
 - vi. World Bank Group (David Ivanovic, Senior Private Sector Specialist) (Ghana)
 - vii. UNCTAD, Commodities Branch (tbd) (Switzerland)
 - viii. OAS (Jeannette Tramhel, Senior Legal Officer) (United States)
 - ix. OHADA (representative tbd by Permanent Secretary Prof. Emmanuel Sibidi Darankoum) (Cameroun)
 - x. United States Department of State (Sharla Draemel, Attorney-Adviser, Office of Private International Law, Office of the Legal Adviser) (United States)
 - xi. French Ministry of Economy and Finance (Clément Seitz, Deputy Head of Savings and Financial Market Unit) (France)
 - xii. Private-sector
 - a. GrainChain Inc. (Mexico)
 - b. Association of General Warehouses (Mexico)
 - c. Bsystems Limited (Ghana)
 - d. Information Services Corporation (ISC) (Canada)
 - e. Indonesia Commodity & Derivatives Exchange (Indonesia)
 - f. Sberbank Hungary Ltd. (Hungary)
 - g. American Agricultural Law Association (United States)
 - h. International Warehouse Logistics Association (United States)
11. In July, the Secretariat agreed with an initial, core group of experts, who would be members of a future Working Group, to begin preparing the necessary background documentation for the first Working Group meeting, bearing in mind that the implementation of the planned project was subject to the approval of the UNCITRAL Commission. The timely preparation of the necessary background documentation will facilitate holding the first Working Group meeting in autumn this year, which, in turn, would facilitate the completion of the work led by UNIDROIT during the current Work Programme as planned.

V. ACTION TO BE TAKEN

12. *The Governing Council is invited to take note of the Secretariat's preparatory work for the proposed Model Law on Warehouse Receipts Project undertaken since the 99th Governing Council remote session in April/May 2020.*