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Item No. 4 on the agenda: Adoption of Draft UNIDROIT Instruments

(b) Model Law on Factoring

(prepared by the Secretariat)

<i>Summary</i>	<i>Submission of the draft Model Law on Factoring to the Governing Council for consideration and final adoption</i>
<i>Action to be taken</i>	<i>The Governing Council is invited to:</i> <i>(i) consider and adopt the draft UNIDROIT Model Law on Factoring;</i> <i>(ii) request that the Secretariat undertake final proofing in order to publish both English and French language versions of the instrument in 2023;</i> <i>(iii) undertake a promotion and implementation campaign for the UNIDROIT Model Law on Factoring; and</i> <i>(iv) begin work on the UNIDROIT Model Law on Factoring Guide to Enactment</i>
<i>Mandate</i>	<i>Work Programmes 2020-2022 and 2023-2025</i>
<i>Priority level</i>	<i>High</i>
<i>Related documents</i>	<i>Draft UNIDROIT Model Law on Factoring (see Annexe); Linked within text</i>

I. INTRODUCTION

1. The purpose of this document is to provide the Governing Council with an analysis on the UNIDROIT Model Law on Factoring (MLF) in order to allow the Governing Council to consider the draft instrument and decide whether it is ready for adoption.

II. BACKGROUND

2. In December 2018, as a proposal for the UNIDROIT Work Programme 2020-2022, the World Bank suggested that UNIDROIT develop a Model Law on Factoring (MLF).¹ At its 98th session in May 2019, the UNIDROIT Governing Council approved the project for the 2020-2022 Triennial Work Programme as a high-priority project.² The purpose of the Model Law is to provide an instrument for States that want to introduce a new stand-alone factoring law or update their existing laws, and are not yet in a position to undertake a comprehensive secured transactions law reform based on international standards.

III. DEVELOPMENT OF THE MODEL LAW ON FACTORING

3. As consistent with the Institute's established working methodology, the MLF has been developed by a Working Group composed of international legal experts representing different legal systems.³ The Working Group has been chaired by Governing Council Member Professor Henry Gabriel. In addition, several international, regional and private organisations with expertise in factoring have participated in the Working Group as observers.⁴ The Working Group developed the MLF over six sessions.⁵ The Working Group has also held a number of intersessional and informal meetings and created several subgroups to work on specific legal issues.⁶

4. The development of the Model Law on Factoring can be divided into four phases:

- i. **Preliminary work and decision on scope** (January 2020 – September 2021): During the first three Working Group meetings, the Working Group resolved key policy issues regarding the scope of the MLF, with a particular focus on the how to define receivables, negotiable treatments and proceeds. The scope of the instrument

¹ [UNIDROIT 2019 C.D. \(98\) 14 rev. 2](#), para. 59.

² [UNIDROIT 2019 C.D. \(98\) 17](#), para 226.

³ The Working Group is composed of the following experts: (i) Henry Gabriel (Chair) (United States), (ii) Giuliano Castellano (Italy), (iii) Neil Cohen (United States), (iv) Michel Deschamps (Canada), (v) Marek Dubovec (Slovakia), (vi) Alejandro Garro (Argentina), (vii) Louise Gullifer (United Kingdom), (viii) Megumi Hara (Japan), (ix) Cathy Walsh (Canada) and (x) Bruce Whittaker (Australia).

⁴ The following organisations observed the MLF Working Group: (i) the World Bank Group; (ii) UNCITRAL; (iii) the Kozolchuk National Law Centre (NatLaw); (iv) the European Bank for Reconstruction and Development (EBRD); (v) the Organization of American States (OAS); (vi) the African Export-Import Bank (AFREXIMBANK); (vii) the Organisation for the Harmonisation of Business Law in Africa (OHADA); and (viii) several industry groups, namely (a) Factors Chain International (FCI), (b) World of Open Account (WOA), (c) Secured Finance Network (SFN) and (d) the International Chamber of Commerce Banking Commission (ICC).

⁵ The first session took place via videoconference between 1 and 3 July 2020 and was attended by 32 participants ([Study LVIII A – W.G.1 – Doc. 4](#)). The second session took place via videoconference between 14 and 16 December 2020 and was attended by 30 participants ([Study LVIII A – W.G.2 – Doc. 4](#)). The third session took place via videoconference between 26 and 28 May 2021 and was attended by 32 participants ([Study LVIII A – W.G.3 – Doc. 4](#)). The fourth session took place in hybrid format between 1 and 3 December 2021 and was attended by 30 participants ([Study LVIII A – W.G.4 – Doc. 6](#)). The fifth session took place in hybrid format between 16 and 18 May 2022 and was attended by 37 participants ([Study LVIII A – W.G.5 – Doc. 6](#)). The sixth session took place in hybrid format between 28 and 30 November 2022 and was attended by 37 participants ([Study LVIII A – W.G.6 – Doc. 7](#)).

⁶ On 11 February 2020, in the margins of the International Secured Transactions Coordination Conference in Cartagena, Colombia, UNIDROIT held a short planning meeting for the Working Group. During its first session, the Working Group established a subgroup to consider issues relating to conflicts of laws, which met several times in 2020. At its third session, the Working Group established a subgroup to develop the MLF's registry rules and an additional subgroup to consider transition issues. Both the registration subgroup and the transition subgroup met several times during 2021 and reported back to the Working Group at its fourth session. The Working Group held a limited intersessional meeting on 20 September 2021 to further define the scope of the MLF. Finally, the Working Group held a limited drafting meeting on 27 March 2023 to finalise the draft MLF.

was settled during an intersessional meeting in September 2020. During this phase, a subgroup prepared the MLF's conflicts of laws chapter.

- ii. **Development of first full draft** (October 2021 – May 2022): Once the scope had been determined, the Working Group began preparation of a first complete draft of the MLF over its fourth and fifth sessions. Two additional subgroups were established to prepare the registry and transition chapters. A full draft was submitted to the Governing Council for consideration at its 101st session in June 2022.
- iii. **Public consultations** (June 2022 – November 2022): The UNIDROIT Secretariat undertook an online consultation and held a number of consultation events (further information on the public consultation process is available below). During this period a first full draft of the French version of the MLF was prepared.
- iv. **Finalisation** (December 2022 – April 2023): The Working Group held its sixth and final session in December 2022 to consider the comments received during the public consultation process. The Secretariat circulated a revised draft MLF in March 2023 for final comments. The Working Group had a final informal drafting meeting on 27 March 2023, at which the Working Group approved the instrument and requested that the Secretariat submit the instrument to the Governing Council for adoption at its 102nd session.

IV. PUBLIC CONSULTATIONS

5. At its 101st session (Rome, June 2022), the Governing Council approved the draft MLF for the purposes of launching a public consultation on the draft instrument and mandated the Secretariat to facilitate such consultation. UNIDROIT conducted a three-month consultation on the draft MLF between July and October 2022. The purposes of the consultation were to:

- i. Raise awareness about the instrument;
- ii. Ensure that the instrument is well suited to application in different contexts, including both civil law and common law jurisdictions, as well as developing economies, emerging markets and developed economies;
- iii. Seek feedback from parties engaged in factoring on whether the instrument sufficiently addresses issues that arise under existing legal frameworks and will improve factoring arrangements in States that implement the Model Law; and
- iv. Solicit comments on the drafting of the instrument itself.

6. The public consultation had three aspects:

- i. **The launch of a dedicated webpage** on the UNIDROIT website that allowed interested parties to access the draft Model Law on Factoring and facilitated the submission of comments (<https://www.unidroit.org/instruments/factoring/model-law-onlineconsultation/>);

- ii. **The circulation of the draft Model Law on Factoring** directly to interested parties, including UNIDROIT stakeholders,⁷ project stakeholders⁸ and industry stakeholders;⁹ and
- iii. **The organisation of consultation events** to discuss the content of the draft instrument with stakeholders. On 12 October 2022, UNIDROIT held a virtual Question and Answer session on the MLF. Approximately 50 stakeholders from the factoring industry, government and academia participated in the virtual event. The event recording is available on the Institute’s YouTube channel.¹⁰ The draft MLF was also considered at a series of events organised by the FCI for stakeholders in Africa, Europe and Latin America.¹¹

7. Twenty-eight submissions were received during the consultation process, comprising 195 individual comments on the draft MLF. Submissions were received from stakeholders in twenty different countries, including twelve from Europe, six from Asia-Pacific, five from South America, four from North America and one from Africa. UNIDROIT received fifteen submissions by private sector stakeholders, eight submissions from academic institutions and five submissions from Governments.

8. The significant majority of the comments on the draft MLF received from stakeholders held a positive view of the draft MLF. Most stakeholders considered that the draft MLF provided a clear and effective legal framework that would better facilitate factoring transactions in their countries.

9. The full list of submissions is available [here](#). The Secretariat also prepared an article-by-article summary for the Working Group.¹² The Working Group considered the submissions received by stakeholders at its sixth session in November 2022 and made several revisions to the draft MLF.¹³

V. OVERVIEW OF THE DRAFT MODEL LAW

10. The draft MLF is a complete, self-standing legal regime to facilitate factoring transactions. It is designed to provide a set of black-letter law rules for States that have not yet implemented a modern, comprehensive secured transactions registry. For States that have undertaken a secured transactions reform, the MLF provides additional rules that could further strengthen their legal framework and encourage factoring, the assignment of receivables, and trade finance.

⁷ UNIDROIT Member States, Governing Council Members, and UNIDROIT Correspondents.

⁸ Relevant international, regional and intergovernmental and non-governmental organisations, including UNCITRAL, the World Bank Group, the European Bank for Reconstruction and Development and the International Chamber of Commerce.

⁹ The Secretariat has worked with private sector organisations, such as Factor Chain International (FCI), World of Open Account (WOA) and the Secured Finance Network, in order to allow private sector experts to provide input on the draft instrument and thereby ensure that it meets the needs of industry.

¹⁰ See https://www.youtube.com/watch?v=9uian_qiWiq&ab_channel=UNIDROIT.

¹¹ On 23 September 2022, the UNIDROIT Secretariat remotely presented the draft Model Law on Factoring at a conference in Istanbul on “Resilience and developments of factoring in Central Eastern Europe and South Eastern Europe”, co-hosted by the EBRD and FCI. On 29 September 2022, the draft Model Law was presented at a FCI Legal Academy webinar for Latin American States on “the key elements for correct Factoring and Supply Chain Finance transactions” (*Elementos clave para transacciones correctas de Factoring & Supply Chain Finance*). Between 3-6 October 2022, the FCI presented the draft MLF at an AFREXIMBANK Trade Finance and Factoring Workshop in Kampala, Uganda.

¹² See [Study LVIII A – W.G.6 – Doc. 4](#).

¹³ See [Study LVIII A – W.G.6 – Doc. 7](#).

Relationship with other international instruments

11. The Model Law on Factoring will be UNIDROIT's second instrument in the field, having also prepared the UNIDROIT Convention on International Factoring in 1988 (Factoring Convention). The Factoring Convention has nine Contracting States and entered into force in 1995. While many of the core principles of the MLF are consistent with the Factoring Convention, the two instruments serve different purposes. The Factoring Convention applies only to notification factoring arrangements between parties in different countries.¹⁴ Conversely, the draft MLF has been prepared to address both international and domestic factoring arrangements, has a broader scope than the 1988 Convention, and relies on a registration system for third-party effectiveness. The MLF also supports modern receivable finance products, such as supply chain financing. As a soft-law instrument, the MLF can be appropriately adapted by implementing States to suit their domestic context.

12. The draft MLF has been designed to be complementary to and largely consistent with the UNCITRAL Model Law on Secured Transactions (2016)¹⁵ and the United Nations Convention on the Assignment of Receivables in International Trade (2001).¹⁶

Structure

13. The draft MLF consists of 54 Articles and 25 Registry Clauses:

Chapter I – Scope and general provisions

Chapter II – Transfers of receivables

Chapter III – Making a transfer of a receivable effective against third parties

Chapter IV – The registration system

Chapter V – Priority of a transfer

Chapter VI – Rights and Obligations of the Parties

Chapter VII – Collection and Enforcement

Chapter VIII – Conflict of Laws

Chapter IX - Transition

Annexe A – Registry Provisions

14. While the draft MLF generally follows the structure of the UNCITRAL Model Law on Secured Transactions, the draft MLF is significantly shorter. By adopting a limited scope and eliminating rules that are not relevant to factoring, the draft MLF is approximately 65% shorter in terms of word length and contains 25% fewer articles than the UNCITRAL Model Law on Secured Transactions.¹⁷

Scope of the MLF

¹⁴ Article 1(2)(c) of the UNIDROIT Convention on International Factoring (1988) provides that the Convention only applies to factoring contracts pursuant to which notice of the assignment of the receivables is given to debtors. Article 2(1) further provides that the Convention is only applicable where the debtor and transferor are located in different States and either (i) the States in which the debtor, transferor and transferee are Contracting States to the Convention, or (ii) both the sale contract and the factoring contract are governed by the law of a Contracting State.

¹⁵ Available at https://uncitral.un.org/en/texts/securityinterests/modellaw/secured_transactions.

¹⁶ Available at <https://uncitral.un.org/en/texts/securityinterests/conventions/receivables>.

¹⁷ The draft MLF contains 79 Articles (including the 25 Registry Clauses) and approximately 9,000 words, whereas the UNCITRAL Model Law on Secured Transactions contains 107 Articles and approximately 25,500 words.

15. The draft MLF applies to both outright transfers of receivables and the creation of security rights in receivables (security transfers).¹⁸ The draft MLF applies to both domestic factoring and international factoring and allows for the transfer of both present and future receivables. As such, the scope of the instrument is broader than the traditional notion of factoring in the 1988 UNIDROIT Convention on International Factoring. This expansion was necessary to ensure that the instrument will appropriately apply to the various financing methods that have become common since the UNIDROIT Factoring Convention was adopted.

16. While the MLF covers a broader range of transactions than the UNIDROIT Factoring Convention, the Working Group has ensured that the draft MLF has a clear and limited scope. The draft MLF applies only to contractual rights to payment of a monetary sum arising from (i) contracts for the supply or lease of goods and services, (ii) the licence or assignment of intellectual property, (iii) the provision or processing of data, or (iv) the payment obligation for a credit card transaction.¹⁹ By adopting a clear and limited scope, the draft MLF does not apply to receivables arising from contracts for the sale or lease of immovable property or receivables arising from various financial transactions, such as financial contracts governed by netting agreements, receivables arising from foreign exchange transactions, and receivables arising from inter-bank payment systems. The draft MLF does not apply to negotiable instruments or bank accounts (except to the extent they are proceeds of a receivable).²⁰

17. The MLF does not cover any regulatory issues, such as the licensing of financial institutions to undertake factoring activities. However, some of those issues will be addressed in the Guide to Enactment.

Formal requirements for a transfer

18. The draft MLF requires very few formal requirements for the transfer of a receivable by an agreement. For a transfer agreement to be effective, it must (i) be in writing and signed by the transferor, (ii) identify the transferor and the transferee, and (iii) describe the receivable in a manner than reasonably allows its identification.²¹

Anti-assignment clauses

19. The draft MLF provides for a complete override of anti-assignment clauses.²² Unlike the UNCITRAL Model Law on Secured Transactions and the Receivables Convention, the draft MLF does not preserve the right of a debtor to claim damages from the transferor for breach of contract in relation to an anti-assignment clause. The anti-assignment clause override is limited to transactions within the scope of the MLF and also applies to any restriction on transfers of supporting rights, such as guarantees.

Registration and priority

20. The draft MLF provides for a transferor-based registry for the listing of notices of transfers (including security transfers). Once a notice is registered, a transfer of a receivable is effective against third parties and priority between competing transfers is determined by order of

¹⁸ Article 2(i) and (j).

¹⁹ Article 2(g).

²⁰ Article 2(f).

²¹ Article 5.

²² Article 8.

registration.²³ The priority of a transfer is not affected by any knowledge that the transferee may have of another transfer.²⁴

21. The rules related to registrations and searches of the registry are set out in Annexe A, rather than directly in Chapter IV. This approach streamlines the text of the instrument, while still ensuring that implementing States will have the model rules required to establish a functional registry. In some States, a registry might have already been established under that State's secured transactions law. In those cases, the MLF does not contemplate the establishment of a separate registry for factoring transactions.

Proceeds

22. The draft MLF provides that the right of a transferee of a receivable extends to its identifiable proceeds.²⁵ "Proceeds" are defined as money, negotiable instruments or the rights to funds credited to a bank account that are received in respect of a receivable, including proceeds of proceeds.²⁶ Third party effectiveness of a transfer and a transferee's priority as established by registration also extend to proceeds.²⁷

Rights and obligations of the parties

23. Chapter VI of the draft MLF provides a set of rules regarding the rights and obligations of the transferor and transferee (Section I) and the rights and obligations of the debtor (Section II). To provide sufficient protection for debtors, Article 25 provides that a transfer does not affect the rights and obligations of the debtor, including payment terms, and cannot change the currency of the payment specified in the contract giving rights to the receivable or the State in which the payment is to be made.

24. Notifications and payment instructions must be provided to the debtor in writing.²⁸ Where a debtor receives a notification of a transfer, the debtor is discharged by paying the transferee or as otherwise instructed in the notification, subject to any payment instruction subsequently received by the debtor from the transferee.²⁹

Conflict of laws and transition

25. Chapters VIII and IX of the draft MLF respectively provide conflict of law and transition rules. Enacting States are able to determine the length of time that prior transfers under the applicable law remain effective against third parties once the new law has entered into force.³⁰

26. Further information on the draft MLF and all Working Group documents are available on the UNIDROIT website at <https://www.unidroit.org/work-in-progress/factoring-model-law>.

²³ Articles 9 and 13.

²⁴ Article 20.

²⁵ Article 6.

²⁶ Article 2(f).

²⁷ Articles 10 and 14.

²⁸ Article 25(1).

²⁹ Article 26(2).

³⁰ Article 52(1).

VI. IMPLEMENTATION

27. Should the Governing Council decide to adopt the draft MLF at this 102nd session, the Secretariat will undertake a final editing and proofing process to ensure linguistic consistency between the English and French versions. Both printed and electronic versions of the instrument will be published within 2023.

28. Following the publication of the MLF, the Secretariat suggests the following four-part implementation and promotion strategy.

- i. **Position the MLF as a core instrument that facilitates trade finance, access to credit and economic development:** UNIDROIT will work with its partner stakeholders to ensure that the MLF is recognised as the tool representing international best practice for receivables financing. To achieve this, UNIDROIT will promote the MLF as an instrument that achieves broad political, economic and social aims, rather than as a narrow technical instrument.³¹
- ii. **Raise awareness of the MLF at relevant large, multilateral fora:** UNIDROIT will work with partner stakeholders to ensure that the MLF is presented at relevant large international events over the next 24 months, including private stakeholder, government and NGO fora.³²
- iii. **Support domestic implementation of the MLF:** UNIDROIT will work with partner organisations that deliver technical assistance programmes to assist States to improve their domestic factoring, receivables finance and trade finance legal frameworks. In recent years, the EBRD, IFC, ADB, UNCITRAL and ILI have all been deeply involved in secured transactions reforms in developing countries and emerging markets. As UNIDROIT has extremely limited capacity to directly undertake technical assistance programmes, the Institute will work with these partner organisations (who have been directly involved in the negotiation of the MLF) to ensure that the MLF forms the basis of future receivables finance and factoring law reform projects across the globe.³³
- iv. **Ensure that the MLF is broadly accessible:** UNIDROIT will ensure that the MLF is accessible to the broadest possible audience by (i) disseminating both printed and electronic copies of the instrument to all stakeholders involved in the development of the MLF, and (ii) working with partner stakeholders to facilitate informal translations of the instrument into languages other than English and French.³⁴

³¹ The MLF has already been recognised as one of three key pillars of the “Financial Inclusion in Trade Roadmap” by the World Trade Board. Launched in April 2023, the “Financial Inclusion in Trade Roadmap” (FIT) is a framework designed to increase the participation of micro-, small- and medium-sized enterprises (MSMEs) in international trade. The World Trade Board was established in 2016 with the purpose of improving living standards by connecting trade, finance and technology. The FIT was developed as a collaborative project between the World Trade Board, the International Chamber of Commerce, the International Finance Corporation (IFC), the Bankers Association for Finance and Trade (BAFT), International Trade and Forfeiting Association (ITFA) and the FCI. The FIT is available at: <https://www.baft.org/wp-content/uploads/2023/04/Financial-Inclusion-in-Trade-Roadmap-202326.pdf>.

³² UNIDROIT is already working on three promotional events: (i) the EBRD will promote the MLF at the 23rd Receivables Finance International Convention in London on 23-24 May 2023; (ii) the FCI will promote the MLF at their annual general assembly meeting in Morocco later in 2023; and (iii) UNIDROIT will work with the IFC, ILI and UNCITRAL to promote the MLF at the 6th Secured Transactions Coordination Conference in Washington, D.C. in October 2023.

³³ The draft MLF has been used to support domestic law reform projects in Jordan, Malaysia, Palestine and the United Arab Emirates, and for possible future reforms in Tajikistan, Ukraine and Uzbekistan.

³⁴ The Secretariat has already discussed informal translations into Chinese, Arabic, Spanish and Japanese with interested stakeholders.

VII. PREPARATION OF A GUIDE TO ENACTMENT

29. As consistent with the UNIDROIT Work Programme for the triennial period 2023 – 2025 adopted by the Governing Council at its 101st session in June 2022 and the General Assembly at its 81st session in December 2022, UNIDROIT will begin the development of a Guide to Enactment for the MLF.

30. The Guide to Enactment will be developed using UNIDROIT’s standard working methodology. It is suggested that the Guide to Enactment can be developed relatively expeditiously, by utilising the expertise of the MLF Working Group and associated stakeholders. The Working Group will commence its work on this matter in the second half of 2023, with the intention of completing the project within the current 2023 – 2025 Work Programme.

VIII. ACTION TO BE TAKEN

31. *The Governing Council is invited to:*

- i. consider and adopt the draft UNIDROIT Model Law on Factoring;*
- ii. request that the Secretariat undertake final proofing in order to publish both English and French language versions of the instrument in 2023;*
- iii. undertake a promotion and implementation campaign for the UNIDROIT Model Law on Factoring; and*
- iv. begin work on the UNIDROIT Model Law on Factoring Guide to Enactment.*

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DRAFT UNIDROIT MODEL LAW ON FACTORING

CHAPTER I

SCOPE AND GENERAL PROVISIONS

Article 1 – Scope of application

1. This Law applies to transfers of receivables.
2. Nothing in this Law affects the rights and obligations of a person under other laws governing the protection of parties to transactions made for personal, family or household purposes.
3. Nothing in this Law overrides a provision of any other law that limits the transfer of specific types of receivable.

Article 2 – Definitions

For the purposes of this Law:

- (a) “Competing claimant” means a person with rights in a receivable that may be in competition with the rights of a transferee of the receivable.
- (b) “Debtor” means a person who owes payment of a receivable.
- (c) “Default” means the failure of a person who owes an obligation secured by a security transfer to pay or otherwise perform that obligation and any other event that constitutes default under the terms of an agreement between the transferor and the transferee.
- (d) “Future receivable” means a receivable that arises or is acquired by the transferor after the time a transfer agreement is entered into, whether or not the contract giving rise to the receivable has been entered into at that time.
- (e) “Judgment creditor” means [to be specified by the enacting State].
- (f) “Proceeds” of a receivable means any:
 - (i) money;
 - (ii) negotiable instrument; or
 - (iii) right to payment of funds credited to an account with an authorised deposit-taking institution,that is received in respect of the receivable, whether in full or partial payment of the receivable. It includes proceeds of proceeds.
- (g) “Receivable” means a contractual right to payment of a monetary sum arising from one or more of the following:
 - (i) the supply or lease of goods or services;
 - (ii) the assignment or licence of intellectual property;

- (iii) the provision or processing of data; or
- (iv) the payment obligation for a credit card transaction.

If a receivable is refinanced or consolidated with other receivables, the resulting right to payment is also a receivable.

(h) “Registry” means the registration system for this Law established by [the relevant authority in the enacting State].

(i) “Security transfer” means:

[(i) enacting State to list any transactions already regarded by domestic law as security transfers]; and

(ii) any other transfer of a receivable by agreement, or creation of a right in a receivable by agreement, to secure payment or other performance of an obligation, regardless of the way in which the parties have described the transaction, the status of the transferor or transferee or the nature of the secured obligation.

(j) “Transfer” of a receivable means:

- (i) an outright transfer of the receivable by agreement; and
- (ii) a security transfer of the receivable.

Where the context requires, “transfer” also means the rights of a transferee arising from a transfer.

(k) “Transfer agreement” means an agreement providing for the transfer of a receivable

(l) “Transferee” means a person to whom or in whose favour a receivable is transferred.

(m) “Transferor” means a person who transfers a receivable.

Article 3 – Party autonomy

1. With the exception of Articles 4, 5, 7(2), 8, 32(3), 36(1) and 37-46, the provisions of this Law may be derogated from or varied by agreement.

2. An agreement referred to in paragraph 1 does not affect the rights or obligations of any person who is not a party to the agreement.

Article 4 – General standards of conduct

A person must exercise its rights and perform its obligations under this Law in good faith and in a commercially reasonable manner.

CHAPTER II

TRANSFERS OF RECEIVABLES

Article 5 – Requirements for the transfer of a receivable

1. A receivable may be transferred by a transfer agreement if the transferor has rights in the receivable or the power to transfer it.
2. A transfer agreement is effective to transfer a receivable only if it:
 - (a) is in writing and signed by the transferor;
 - (b) identifies the transferor and the transferee; and
 - (c) describes the receivable in a manner that reasonably allows its identification.
3. A description of receivables in a transfer agreement is sufficient if it indicates that the receivables consist of all of the transferor's receivables, or all of the transferor's receivables within a generic category.
4. A transferor may transfer:
 - (a) a part of or an undivided interest in receivables;
 - (b) a generic category of receivables; and
 - (c) all of its receivables.
5. A transfer agreement may provide for the transfer of a future receivable, but the transfer is effective only when the transferor acquires rights in the receivable or the power to transfer it.

Article 6 – Proceeds

The right of the transferee of a receivable extends to its identifiable proceeds.

Article 7 – Personal or property rights securing or supporting payment of a receivable

1. A transferee of a receivable has the benefit of any personal or property right that secures or supports payment of the receivable without a new act of transfer. If the transferee would have the benefit of that right under the law governing it only with a new act of transfer, the transferor is obliged to transfer the benefit of that right to the transferee.
2. A transferee has the benefit of a right under paragraph 1 notwithstanding any agreement between the transferor and the debtor or other person granting the right that secures or supports payment of the receivable that limits in any way the transferor's right to transfer the receivable or the ability of the transferee to have the benefit of that right.

Article 8 – Contractual limitations on the transfer of receivables

1. A transfer of a receivable is effective notwithstanding any agreement between the debtor and a transferor limiting in any way a transferor's right to transfer the receivable.

2. Neither a transferor nor a transferee is liable for breach of an agreement referred to in paragraph 1, and the debtor may not avoid the contract giving rise to the receivable on the sole ground of the breach. A person that is not a party to an agreement referred to in paragraph 1 is not liable for the transferor's breach of the agreement on the sole ground that it had knowledge of the agreement.

CHAPTER III

EFFECTIVENESS AGAINST THIRD PARTIES OF TRANSFERS OF RECEIVABLES

Article 9 – Registration

A transfer of a receivable is effective against third parties only if a notice with respect to the transfer is registered in the Registry.

Article 10 – Proceeds

If a transfer of a receivable is effective against third parties, the transferee's right to any proceeds of that receivable under Article 6 is also effective against third parties.

Article 11 – Continuity in third-party effectiveness upon the relocation of the transferor to this State

1. If a transfer is effective against third parties under the law of another State and the transferor relocates to this State, the transfer remains effective against third parties under this Law if it is made effective against third parties in accordance with this Law before the earlier of:
 - (a) the time when third-party effectiveness would have lapsed under the law of the other State; and
 - (b) the expiry of [a short period of time to be specified by the enacting State] after the transferor relocates to this State.
2. If a transfer continues to be effective against third parties under paragraph 1, the time of third-party effectiveness is the time when it was achieved under the law of the other State.

CHAPTER IV
THE REGISTRY SYSTEM

Article 12 – The Registry

The rules relating to registrations and searches in the Registry are set out in Annexe A.

CHAPTER V

PRIORITY OF A TRANSFER

Article 13 – Competing transfers

1. Priority between competing transfers is determined by the order of registration of the notices relating to those transfers.
2. Paragraph 1 applies whether the transferred receivable arises or is acquired by the transferor before or after the time of registration of the notices relating to those transfers.
3. Subject to Article 17, the priority of a security transfer extends to all obligations secured by the transfer, including obligations incurred after the transfer became effective against third parties.

Article 14 – Proceeds

The priority of a transfer extends to any proceeds to which the transferee has rights under Article 6.

Article 15 – Impact of the transferor’s insolvency on the priority of a transfer

A transfer that is effective against third parties at the time of the commencement of insolvency proceedings in respect of the transferor remains effective against third parties and retains the priority it had before the commencement of the insolvency proceedings, unless another claim has priority pursuant to the applicable insolvency law.

[Article 16 – Transfers competing with claims arising by operation of law

The following claims arising by operation of other law have priority over a transfer that is effective against third parties but only up to [the enacting State to specify the amount for each category of claim]:

- (a) [...];
- (b) [...].]

Article 17 – Transfers competing with rights of judgment creditors

1. The right of a judgment creditor has priority over a transfer if, before the transfer is made effective against third parties, the judgment creditor has [taken the steps to be specified by the enacting State for a judgment creditor to acquire rights in the receivable or the steps referred to in the relevant provisions of other law to be specified by the enacting State].
2. In the case of a security transfer, if the transfer is made effective against third parties before or at the same time the judgment creditor acquires its right in a receivable by taking the steps referred to in paragraph 1, the transfer has priority but that priority is limited to the greater of the credit extended by the transferee:

- (a) Before the transferee received a notice from the judgment creditor that the judgment creditor has taken the steps referred to in paragraph 1 [or within a short period of time to be specified by the enacting State thereafter]; or
- (b) Pursuant to an irrevocable commitment of the transferee to extend credit in a fixed amount or an amount to be fixed pursuant to a specified formula, if the commitment was made before the transferee received a notice from the judgment creditor that the judgment creditor had taken the steps referred to in paragraph 1.

Article 18 – Subordination

1. A person may at any time modify or subordinate the priority of its rights under this Law in favour of any existing or future competing claimant. The beneficiary need not be a party to the modification or subordination.
2. A modification or subordination under paragraph 1 does not affect the rights of competing claimants other than the person modifying or subordinating its priority and the beneficiary of the modification or subordination.

Article 19 – Irrelevance of knowledge of another transfer

The priority of a transfer is not affected by any knowledge that the transferee has of another transfer.

CHAPTER VI

RIGHTS AND OBLIGATIONS OF THE TRANSFEROR, TRANSFEREE AND DEBTOR

SECTION 1. TRANSFEROR AND TRANSFEREE

Article 20 – Rights and obligations of the transferor and the transferee

1. The mutual rights and obligations of a transferor and transferee arising from their transfer agreement are determined by the terms and conditions set out in that agreement, including any rules or general conditions referred to therein.
2. The transferor and the transferee are bound by any usage to which they have agreed and, unless otherwise agreed, by any practices they have established between themselves.

Article 21 – Representations of the transferor

1. The transferor of a receivable represents, at the time of entry into the transfer agreement, that:
 - (a) The transferor has, or in the case of a future receivable or will have, the right to transfer the receivable;
 - (b) The transferor has not previously transferred the receivable to another transferee; and
 - (c) The debtor does not and will not have any defences or rights of set-off.
2. The transferor does not represent that the debtor has, or will have, the ability to pay.

Article 22 – Right to notify the debtor

1. The transferor, the transferee or both may send the debtor a notification of a transfer and a payment instruction, but after notification of the transfer has been received by the debtor only the transferee may send a payment instruction.
2. Notification of a transfer or payment instruction sent in breach of an agreement between the transferor and the transferee is not ineffective for the purposes of Article 26, but nothing in this Article affects any obligation or liability of the party in breach for any damages arising as a result of the breach.

Article 23 – Right to payment

As between the transferor and the transferee, whether or not notification of a transfer has been sent to the debtor:

- (a) If payment with respect to the receivable is made to the transferee, the transferee is entitled to retain the payment;
- (b) If payment with respect to the receivable is made to the transferor, the transferee is entitled to be paid that amount by the transferor; and

- (c) If payment with respect to the receivable is made to another person over whom the transferee has priority, the transferee is entitled to be paid that amount by the other person.

SECTION 2. DEBTOR

Article 24 – Principle of debtor protection

1. Except as otherwise provided in this Law, a transfer does not, without the consent of the debtor, affect the rights and obligations of the debtor, including the payment terms contained in the contract giving rise to the receivable.
2. A payment instruction may change the person, address or account to which the debtor is required to make payment, but may not change without the consent of the debtor:
 - (a) The currency of payment specified in the contract giving rise to the receivable; or
 - (b) The State specified in the contract giving rise to the receivable in which payment is to be made to a State other than that in which the debtor is located.

Article 25 – Notification of the debtor

1. A notification of a transfer and a payment instruction must be in writing.
2. A notification of a transfer or a payment instruction is effective when received by the debtor if it reasonably identifies the receivable and the transferee, and is in a language that is reasonably expected to inform the debtor about its contents. It is sufficient if the notification of the transfer or a payment instruction is in the language of the contract giving rise to the receivable.
3. A notification of a transfer or a payment instruction may relate to receivables arising after notification.
4. In the case of a series of transfers of a receivable from a transferee to a subsequent transferee, notification of one transfer constitutes notification of all previous transfers.

Article 26 – Debtor's discharge by payment

1. Until the debtor receives notification of a transfer, the debtor is discharged by paying in accordance with the contract giving rise to the receivable.
2. After the debtor receives notification of a transfer pursuant to Article 25, subject to paragraphs 3 to 8 of this Article, the debtor is discharged only by paying the transferee or as otherwise instructed in the notification, subject to any payment instruction subsequently received by the debtor from the transferee.
3. If the debtor receives more than one payment instruction relating to a single transfer of the same receivable by the same transferor, the debtor is discharged by paying in accordance with the last payment instruction received from the transferee before payment.
4. If the debtor receives notification of more than one transfer of the same receivable by the same transferor, the debtor is discharged by paying in accordance with the first notification received.

5. If the debtor receives notification of a transfer by a transferee, the debtor is discharged by paying in accordance with that notification. In the case of a series of transfers from a transferee to a subsequent transferee, the debtor is discharged by paying in accordance with the notification of the last of those transfers.

6. If the debtor receives notification of the transfer of a part of or an undivided interest in a receivable, the debtor is discharged by paying in accordance with the notification or in accordance with this Article as if the debtor had not received the notification. If the debtor pays in accordance with the notification, the debtor is discharged only to the extent of the part or undivided interest paid.

7. If the debtor receives notification of a transfer from the transferee, the debtor is entitled to request the transferee to provide within a reasonable period of time adequate proof that the transfer from the initial transferor to the initial transferee and any intermediate transfer has been made. Until the transferee does so, the debtor is discharged by paying in accordance with this Article as if the notification had not been received. Adequate proof of a transfer includes but is not limited to any writing emanating from the transferor that indicates that the transfer has been made.

8. This Article does not affect any other ground on which payment by the debtor to the person entitled to payment, to a competent judicial or other authority, or to a public deposit fund, discharges the debtor.

Article 27 – Defences and rights of set-off of the debtor

1. In a claim by the transferee against the debtor for payment of a receivable, the debtor may raise against the transferee all defences and rights of set-off arising from the contract giving rise to the receivable, or any other contract that was part of the same transaction, of which the debtor could avail itself as if the transfer had not been made and the claim were made by the transferor.

2. The debtor may raise against the transferee any other right of set-off, provided that was available to the debtor at the time it received notification of the transfer.

Article 28 – Agreement not to raise defences or rights of set-off

1. A debtor may agree with the transferor in a signed writing not to raise against the transferee the defences and rights of set-off that it could raise in accordance with Article 27.

2. Such an agreement does not preclude the debtor from raising defences:

- (a) Arising from fraudulent acts of the transferee; or
- (b) Based on the debtor's incapacity.

3. Such an agreement may be modified only by an agreement in writing signed by the debtor. The effectiveness of such a modification as against the transferee is determined by Article 29.

Article 29 – Modification of the contract giving rise to a receivable

1. A modification of the contract giving rise to a receivable that is made between the transferor and the debtor before the debtor receives notification of the transfer and that affects the transferee's rights is effective as against the transferee, and the transferee acquires corresponding rights.
2. A modification that is made between the transferor and the debtor after the debtor receives notification of the transfer and that affects the transferee's rights is ineffective against the transferee unless:
 - (a) The transferee consents to it; or
 - (b) The receivable is not fully earned by performance and either the modification is provided for in the contract giving rise to the receivable or, in the context of that contract, a reasonable transferee would consent to the modification.
3. Paragraphs 1 and 2 do not affect any right of the transferee arising from breach of an agreement with the transferor.

Article 30 – Recovery of payments

Failure of a transferor to perform the contract giving rise to the receivable does not entitle the debtor to recover from the transferee a sum paid by the debtor to the transferor or the transferee.

CHAPTER VII

COLLECTION AND ENFORCEMENT

SECTION 1. OUTRIGHT TRANSFERS

Article 31 – Collection of payment under an outright transfer

1. The transferee under an outright transfer of a receivable is entitled to collect the receivable at or after the time payment becomes due.
2. The transferee exercising the right to collect under paragraph 1 is also entitled to enforce any personal or property right that secures or supports payment of the receivable.
3. The right of the transferee to collect under paragraph 1 is subject to Articles 24 to 30.

SECTION 2. SECURITY TRANSFERS

Article 32 – Post-default rights

1. After default, the transferor and the transferee under a security transfer are entitled to exercise:
 - (a) Any right under this chapter; and
 - (b) Any other right provided in the transfer agreement or any other law, except to the extent it is inconsistent with this Law.
2. The exercise of one post-default right does not prevent the exercise of another post-default right, except to the extent that the exercise of one right makes the exercise of another right impossible.
3. Before default, the transferor under a security transfer and any person who owes the obligation secured by the security transfer may not waive unilaterally or vary by agreement any of their rights under this chapter.

Article 33 – Collection of payment under a security transfer

1. After default, the transferee under a security transfer is entitled to collect the receivable at or after the time payment becomes due.
2. The transferee may exercise the right to collect under paragraph 1 before default if the transferor consents.
3. The transferee exercising the right to collect under paragraph 1 or 2 is also entitled to enforce any personal or property right that secures or supports payment of the receivable.
4. The right of the transferee to collect under paragraph 1 is subject to Articles 24 to 30.

Article 34 – Right of the transferee to sell a receivable

1. After default, the transferee under a security transfer is entitled to sell the receivable.
2. The transferee may select the method, manner, time, place and other aspects of the sale, including whether to sell receivables individually, in groups or altogether.
3. The transferee must give notice of its intention to sell the receivable to:
 - (a) The transferor and any person who owes the obligation secured by the security transfer;
 - (b) Any person with a right in the receivable that informs the transferee of that right in writing at least [a short period of time to be specified by the enacting State] before the notice is sent to the transferor; and
 - (c) Any other transferee that registered a notice with respect to a transfer of the receivable at least [a short period of time to be specified by the enacting State] before the notice is sent to the transferor.
4. The notice must be given at least [a short period of time to be specified by the enacting State] before the sale takes place and must contain:
 - (a) A description of the receivable;
 - (b) A statement of the amount required at the time the notice is given to satisfy the obligation secured by the security transfer, including interest and the reasonable cost of enforcement;
 - (c) A statement that the transferor, any person who owes the obligation secured by the transfer or any other person with a right in the receivable is entitled to terminate the enforcement process by paying or performing the secured obligation in full, including the reasonable cost of enforcement, at any time before the earlier of the sale of the receivable or the entry by the transferee into an agreement for the sale of the receivable; and
 - (d) A statement of the date after which the receivable will be sold or, in the case of a public sale, the time, place and manner of the intended sale.
5. The notice must be in a language that is reasonably expected to inform the recipient about its content. It is sufficient if a notice to the transferor is in the language of the transfer agreement.
6. The notice need not be given if the receivable is of a kind sold on a recognised market.

Article 35 – Distribution of the proceeds of collection or sale of a receivable and liability for any deficiency

1. If the transferee exercises the right provided in Article 33 or 34:
 - (a) [Subject to Article 16,] the transferee must apply the proceeds of its collection or sale to the obligation secured by the transfer after deducting the reasonable cost of collection or sale;
 - (b) Except as provided in paragraph 1(c), the transferee must pay any surplus to any subordinate competing claimant that, prior to any distribution of the surplus, notified the transferee of its claim, to the extent of the amount of that claim, and pay any balance remaining to the transferor; and

(c) Whether or not there is any dispute as to the entitlement or priority of any competing claimant under this Law, the transferee may pay the surplus to a competent judicial or other authority or to a public deposit fund for distribution in accordance with this Article.

2. A person who owes the obligation secured by the security transfer remains liable for any amount owing after application of the net proceeds of collection or sale to the obligation secured by the transfer.

CHAPTER VIII

CONFLICT OF LAWS

Article 36 – Mutual rights and obligations of the transferor, transferee and debtor

1. The law applicable to the mutual rights and obligations of the transferor and the transferee arising from their transfer agreement is the law chosen by them and, in the absence of a choice of law, the law governing the transfer agreement.
2. The law applicable to:
 - (a) The mutual rights and obligations of the debtor and the transferee;
 - (b) The conditions under which the transfer may be invoked against the debtor, including whether a contractual limitation on the transferor's right to transfer the receivable may be asserted by the debtor; and
 - (c) Whether the obligations of the debtor have been discharged,is the law governing the rights and obligations between the debtor and the transferor.

Article 37 – Effectiveness and priority of transfers

Except as provided in Article 38, the law applicable to the effectiveness and priority of a transfer of a receivable is the law of the State in which the transferor is located.

Article 38 – Priority of transfers of receivables secured by a right in immovable property

Notwithstanding Article 37, in the case of a transfer of a receivable that is secured by a right in immovable property, the law applicable to the priority of the transfer of the receivable as against the right of a competing claimant that is registrable in the immovable property registry in which rights in the relevant immovable may be registered is the law of the State under whose authority the immovable property registry is maintained.

Article 39 – Enforcement of transfers

The law applicable to issues relating to the enforcement of a transfer of a receivable is the law applicable to the priority of the transfer.

Article 40 – Proceeds

1. The law applicable to the effectiveness as between the transferor and the transferee of a transferee's right in proceeds is the law applicable to the effectiveness as between the transferor and the transferee of the transfer of the receivable from which the proceeds arose.
2. The law applicable to the third-party effectiveness and priority of a transferee's right in proceeds is the law applicable to the third-party effectiveness and priority of a right in an asset of the same kind as the proceeds.

Article 41 – Location of the transferor

For the purposes of this chapter, the transferor is located:

- (a) In the State in which it has its place of business;
- (b) If the transferor has a place of business in more than one State, in the State in which the central administration of the transferor is exercised; and
- (c) If the transferor does not have a place of business, in the State in which the transferor has his or her habitual residence.

Article 42 – Relevant time for determining location of the transferor

1. Except as provided in paragraph 2, references to the location of the transferor in this chapter refer:

- (a) For issues relating to the effectiveness of the transfer as between the transferor and the transferee, to the location of the transferor at the time of the putative creation of the transfer; and
- (b) For third-party effectiveness and priority issues, to the location of the transferor at the time the issue arises.

2. If the right of a transferee in a receivable is made effective against the transferor and third parties and the rights of all competing claimants are established before a change in the location of the transferor, references in this chapter to the location of the transferor are references, with respect to third-party effectiveness and priority issues, to the location prior to the change.

Article 43 – Exclusion of *renvoi*

A reference in this chapter to the law of a State as the law applicable to an issue refers to the law in force in that State other than its rules of private international law.

Article 44 – Overriding mandatory rules and public policy

1. The provisions of this chapter do not prevent a court from applying overriding mandatory provisions of the law of the forum that apply irrespective of the law applicable under the provisions of this chapter.

2. The law of the forum determines when a court may or must apply or take into account overriding mandatory provisions of another law.

3. A court may exclude the application of a provision of the law applicable under the provisions of this chapter only if and to the extent that the result of its application would be manifestly incompatible with fundamental notions of public policy of the forum.

4. The law of the forum determines when a court may or must apply or take into account the public policy of a State other than the State the law of which would be applicable under the provisions of this chapter.

5. This Article does not prevent an arbitral tribunal from applying or taking into account public policy, or from applying or taking into account overriding mandatory provisions of a law other than the law applicable under the provisions of this chapter, if the arbitral tribunal is required or entitled to do so.

6. This Article does not permit a court to displace the provisions of this chapter dealing with the law applicable to the third-party effectiveness and priority of a transfer.

Article 45 – Commencement of insolvency proceedings does not affect the law applicable to a transfer

The commencement of insolvency proceedings in respect of the transferor does not displace the law applicable to a transfer under this chapter.

Article 46 – Multi-unit States

If the law applicable to an issue is the law of a State that comprises one or more territorial units each of which has its own rules of law in respect of that issue:

- (a) Any reference in this chapter to the law of a State means the law in force in the relevant territorial unit; and
- (b) The internal conflict-of-laws rules of that State, or in the absence of such rules, of that territorial unit determine the territorial unit whose substantive law is to apply.

CHAPTER IX

TRANSITION

Article 47 – Entry into force of this Law

This Law enters into force [on the date or according to the mechanism to be specified by the enacting State].

Article 48 – Amendment and repeal of other laws

1. [The laws to be specified by the enacting State] are repealed.
2. [The laws to be specified by the enacting State] are amended as follows [the text of the relevant amendments to be specified by the enacting State].

Article 49 – General applicability of this Law

1. For the purposes of this chapter:
 - (a) “Prior law” means the law applicable under the conflict-of-laws rules of [the enacting State] that applied to prior transfers immediately before the entry into force of this Law; and
 - (b) “Prior transfer” means a right created by an agreement entered into before the entry into force of this Law that is a transfer within the meaning of this Law and to which this Law would have applied if it had been in force when the right was created.
2. Except as otherwise provided in this chapter, this Law applies to all transfers, including prior transfers within its scope.

Article 50 – Applicability of prior law to matters that are the subject of proceedings commenced before the entry into force of this Law

1. Subject to paragraph 2, prior law applies to a matter that is the subject of proceedings before a court or arbitral tribunal commenced before the entry into force of this Law.
2. If any step has been taken to collect a receivable or enforce a prior transfer before the entry into force of this Law, collection or enforcement may continue under prior law or may proceed under this Law.

Article 51 – Applicability of prior law to effectiveness of a prior transfer between the parties

1. Prior law determines whether a prior transfer is effective between the parties.
2. A prior transfer remains effective between the parties even if it would not otherwise be effective between the parties under this Law.

Article 52 – Transitional rules for determining the third-party effectiveness of a prior transfer

1. A prior transfer that was effective against third parties under prior law at the time this Law entered into force continues to be effective against third parties under this Law until the earlier of:
 - (a) The time it would have ceased to be effective against third parties under prior law; and
 - (b) The expiration of [a period of time to be specified by the enacting State] after the entry into force of this Law.
2. If the third-party effectiveness requirements of this Law are satisfied before the third-party effectiveness of a prior transfer ceases in accordance with paragraph 1, the prior transfer continues to be effective against third parties under this Law from the time when it was made effective against third parties under prior law.
3. If the third-party effectiveness requirements of this Law are not satisfied before the third-party effectiveness of a prior transfer ceases in accordance with paragraph 1, the prior transfer is effective against third parties only from the time it is made effective against third parties under this Law.
4. A written agreement between a transferor and a transferee for a prior transfer is sufficient to constitute authorisation by the transferor for the registration of a notice covering the receivables described in that agreement under this Law.
- [5. If a prior transfer referred to in paragraph 2 was made effective against third parties by the registration of a notice under prior law, the time of registration under prior law is the time to be used for the purposes of applying the priority rules of this Law that refer to the time of registration of a notice of a transfer.]

Article 53 – Applicability of prior law to the priority of a prior transfer as against the rights of competing claimants arising under prior law

1. The priority of a prior transfer as against the rights of a competing claimant is determined by prior law if:
 - (a) The transfer was made and the rights of all competing claimants arose before the entry into force of this Law; and
 - (b) The priority status of neither the prior transfer nor the rights of any of the competing claimants has changed since the entry into force of this Law.
2. For the purposes of paragraph 1 (b), the priority status of a prior transfer has changed only if:
 - (a) It was effective against third parties when this Law entered into force but ceased to be effective against third parties; or
 - (b) It was not effective against third parties under prior law when this Law entered into force, and only became effective against third parties under this Law.

Article 54 - Transitional rules for the rights and obligations of the debtor

If a contract giving rise to a receivable was entered into before the entry into force of this Law, the following matters are determined by the law applicable under the conflict-of-laws rules of [the enacting State] that applied immediately before the entry into force of this Law:

- (a) Article 8(2);
- (b) Article 25;
- (c) Article 26;
- (d) Article 27;
- (e) Article 28;
- (f) Article 29;
- (g) Article 30; and
- (h) Article 31.

ANNEXE A
REGISTRY PROVISIONS

A. GENERAL RULES

Clause 1 – Definitions

For the purposes of this Annexe:

- (a) "Address" means:
 - (i) A physical address or a post office box number, city, postal code and State;
or
 - (ii) An electronic address;
- (b) "Amendment notice" means a notice submitted to the Registry to modify information contained in a registered notice;
- (c) "Cancellation notice" means a notice submitted to the Registry to cancel the effectiveness of a registered notice;
- (d) "Designated field" means a field in a form available through the Registry's electronic user interface that is designated for entering a specified type of information;
- (e) "Initial notice" means a notice submitted to the Registry to achieve the third-party effectiveness of the transfer of a receivable to which the notice relates;
- (f) "Notice" means an initial notice, an amendment notice and a cancellation notice;
- (g) "Public registry record" means that part of the registry record that is publicly accessible;
- (h) "Registered notice" means a notice the information in which has been entered into the registry record;
- (i) "Registrant" means a person who submits a notice to the Registry;
- (j) "Registration" means the entry of information contained in a notice into the registry record;
- (k) "Registration number" means the unique number assigned to an initial notice by the Registry and permanently associated with that notice and any related notice;
- (l) "Registry record" means the information in all registered notices stored by the Registry.

Clause 2 – Transferor's authorisation for registration

1. Registration of an initial notice is ineffective unless authorised by the transferor in writing.
2. Registration of an amendment notice that adds receivables or extends the period of effectiveness of the registration of a notice is ineffective unless authorised by the transferor in writing.

3. Registration of an amendment notice that adds a transferor is ineffective unless authorised by the additional transferor in writing.
4. Authorisation may be given before or after the registration of an initial or amendment notice.
5. A written transfer agreement is sufficient to constitute authorisation by the transferor for the registration of an initial or amendment notice covering a receivable described in that transfer agreement.

Clause 3 – One notice sufficient for multiple transfers

The registration of a single notice may relate to transfers under one or more than one transfer agreement.

Clause 4 – Advance registration

A notice may be registered before a transfer or the entry into of a transfer agreement to which the notice relates.

B. ACCESS TO REGISTRY SERVICES

Clause 5 – Conditions for access to registry services

1. Any person may submit a notice to the Registry, if that person:
 - (a) Uses the form made available for that purpose through the Registry's electronic user interface;
 - (b) Identifies itself in the manner specified by the Registry; and
 - (c) Has paid or arranged to pay the prescribed fee.
2. A person may submit an amendment or cancellation notice if that person also satisfies the secure access requirements specified by the Registry.
3. Any person may submit a search request to the Registry if that person:
 - (a) Uses the form made available for that purpose through the Registry's electronic user interface; and
 - (b) Has paid or arranged to pay the prescribed fee.

Clause 6 – Acceptance of the registration of a notice or a search request

1. The Registry must not permit the registration of:
 - (a) A notice if no information is entered in one of the mandatory designated fields; or
 - (b) An amendment notice to extend the period of effectiveness of the registration of a notice if it is not submitted within the period referred to in clause 12(2).

2. The Registry must not accept a search request if no information is entered in one of the fields designated for entering a search criterion.

C. REGISTRATION OF A NOTICE

Clause 7 – Information required in an initial notice

An initial notice must contain the following information in the relevant designated field:

- (a) The identifier and address of the transferor in accordance with clause 8;
- (b) The identifier and address of the transferee or its representative in accordance with clause 9;
- (c) A description of the receivables in accordance with clause 10; and
- (d) The period of effectiveness of the registration in accordance with clause 12.

Clause 8 – Transferor’s identifier

1. Where the person to be identified in an initial or amendment notice as the transferor is a natural person, the transferor’s identifier is [the name or other identifier of that person, to be specified by the enacting State] as it appears in [the relevant official document to be specified by the enacting State].

[2. If the enacting State specifies more than one document under paragraph 1, it should designate the order in which each document should be used to determine that person’s name or other identifier.]

3. Where the person to be identified in an initial or amendment notice as the transferor is a legal person, the transferor’s identifier is [the name or other identifier of that person, to be specified by the enacting State] as it appears in or is determined by [the relevant document, law or decree to be specified by the enacting State].

4. [The enacting State should specify which components of the transferor’s name or other identifier determined in accordance with paragraphs 1 and 3 must be entered in an initial or amendment notice].

5. [The enacting State should specify the manner in which the transferor’s name or other identifier is determined if the name or other identifier is legally changed after the issuance of the relevant document, law or decree referred to in paragraphs 1,2 or 3.]

Clause 9 – Transferee’s identifier

1. Where the person to be identified in an initial or amendment notice as the transferee is a natural person, the transferee’s identifier is [the name or other identifier of that person] as it appears in [the relevant official document to be specified by the enacting State].

[2. If the enacting State specifies more than one document under paragraph 1, it should designate the order in which each document should be used to determine that person’s name or other identifier].

3. Where the person to be identified in an initial or amendment notice as the transferee is a legal person, the transferee's identifier is [the name or other identifier of that person] as it appears in or is determined by [the relevant document, law or decree to be specified by the enacting State].

Clause 10 – Description of receivables

1. The receivables must be described in an initial or amendment notice in a manner that reasonably allows their identification.

2. A description that indicates that the receivables consist of all of the transferor's receivables, or of all of the transferor's receivables within a generic category, satisfies the standard in paragraph 1.

Clause 11 – Time of effectiveness of the registration of a notice

1. The registration of an initial or amendment notice is effective from the date and time when the information in the notice is entered into the registry record so that it is accessible to searchers of the public registry record.

2. The registration of a cancellation notice is effective from the date and time when the information in the notice to which it relates is no longer accessible to searchers of the public registry record.

Clause 12 – Period of effectiveness of the registration of a notice

1. The registration of an initial notice is effective for the period of time indicated by the registrant in the designated field of the notice, not exceeding [a maximum period of time to be specified by the enacting State].

2. The period of effectiveness of the registration of an initial notice may be extended within [a period of time to be specified by the enacting State] before its expiry by the registration of an amendment notice that indicates in the designated field a new period not exceeding the maximum period of time referred to in paragraph 1.

3. The period of effectiveness of the registration of an initial notice may be extended more than once.

4. The registration of an amendment notice in accordance with paragraph 2 extends the period of effectiveness for the period specified in the amendment notice beginning from the time when the current period would have expired if the amendment notice had not been registered.

D. REGISTRATION OF AN AMENDMENT OR CANCELLATION NOTICE

Clause 13 – Information required in an amendment notice

1. An amendment notice must contain in the relevant designated field:

- (a) The registration number of the initial notice to which it relates; and
 - (b) The information to be added or changed.
2. An amendment notice may modify one or more than one item of information in the registered notice to which it relates.

Clause 14 – Compulsory registration of an amendment or cancellation notice

1. The transferee must register an amendment notice deleting receivables from a description of receivables in a registered notice if:
- (a) The transferor has not authorised the registration of a notice in relation to those receivables and the transferee has been informed by the transferor that it will not authorise that registration;
 - (b) The transferor authorised the registration of a notice covering those receivables but the authorisation has been withdrawn and no transfer agreement covering those receivables has been entered into; or
 - (c) The transfer agreement to which the registered notice relates has been revised to remove those receivables from the transfer agreement and the transferor has not otherwise authorised the registration of a notice covering those receivables.
2. The transferee must register a cancellation notice if:
- (a) The registration of the initial notice was not authorised by the transferor and the transferee has been informed by the transferor that it will not authorise the registration of the initial notice;
 - (b) The transferor authorised the registration of the initial notice but the authorisation has been withdrawn and no transfer agreement has been entered into; or
 - (c) All receivables to which the initial and any amendment notice relate have been paid in full or have been transferred back to the transferor or, in the case of a security transfer of a receivable, that security transfer has been extinguished.
3. The transferee may not charge or accept a fee or expense for complying with its obligation in accordance with paragraph 1(a), 1(b), 2(a) or 2(b).
4. If the conditions set out in paragraph 1 or 2 have been met, the transferor may request the transferee in writing, reasonably identifying itself and the related initial notice, to register the appropriate amendment or cancellation notice. The transferee may not charge or accept any fee or expense for complying with the transferor's request.
5. If the transferee does not comply with the transferor's request made in accordance with paragraph 4 within [a short period of time to be specified by the enacting State] after its receipt, the transferor may seek an order for the registration of an amendment or cancellation notice through [a summary judicial or administrative procedure to be specified by the enacting State].
6. Where an order for the registration of an amendment or cancellation notice is issued in accordance with paragraph 5, the Registry must register the notice without delay upon receipt of a request with a copy of the relevant order.

**Clause 15 – Effectiveness of the registration of an amendment or
cancellation notice not authorised by the transferee**

The registration of an amendment or cancellation notice is effective regardless of whether it is authorised by the transferee.

E. SEARCHES

Clause 16 – Search criteria

A search of the public registry record may be conducted according to:

- (a) The identifier of a transferor; or
- (b) The registration number of an initial notice.

Clause 17 – Search results

1. Upon receipt of a search request, the Registry must provide a search result that indicates the date and time when the search was performed and:
 - (a) Sets out all information in each registered notice that contains information matching the search criterion; or
 - (b) Indicates that no registered notice contains information matching the search criterion.
2. A search result that purports to have been issued by the Registry is proof of its contents in the absence of evidence to the contrary.

F. ERRORS AND POST-REGISTRATION CHANGES

Clause 18 – Registrant errors in required information

1. An error in the transferor's identifier entered in an initial or amendment notice does not render the registration of the notice ineffective if the information in the notice would be retrieved by a search of the public registry record using the transferor's correct identifier as the search criterion.
2. An error in information required to be entered in an initial or amendment notice other than the transferor's identifier does not render the registration ineffective unless the error would seriously mislead a reasonable searcher.

Clause 19 – Post-registration change of transferor's identifier

1. Subject to paragraph 2, the third-party effectiveness and priority of a transfer that is effective against third parties are not affected by a change in the identifier of the transferor after the notice is registered.

2. If the identifier of the transferor changes after a notice is registered, a competing transfer made by the transferor that is made effective against third parties after the change has priority over the transfer to which the notice relates, unless an amendment notice disclosing the new identifier of the transferor is registered:

- (a) Before the expiry of [a short period of time to be specified by the enacting State] after the change; or
- (b) After the expiry of the period referred to in paragraph 2 (a) but before the competing transfer is made effective against third parties.

G. ORGANISATION OF THE REGISTRY AND THE REGISTRY RECORD

Clause 20 – The registrar

The [appropriate authority to be specified by the enacting State] has the power to appoint and dismiss the registrar, and to determine the registrar's duties and monitor their performance.

Clause 21 – Integrity of information in the registry record

1. Except as provided in clauses 22 and 23, the Registry may not amend or remove information contained in a registered notice from the registry record.
2. The Registry must preserve all information contained in the registry record and reconstruct the registry record in the event of loss or damage.

Clause 22 – Removal of information from the public registry record and archival

1. The Registry must remove information in a registered notice from the public registry record upon the expiry of the period of effectiveness of the registration of a notice in accordance with clause 12, or upon the registration of a cancellation notice, including any cancellation notice registered in accordance with clause 14(2) or (6).
2. Except as provided in paragraph 1, the Registry may not remove information contained in a registered notice from the public registry record.
3. The Registry must archive information removed from the public registry record in accordance with paragraph 1 for [a period of time to be specified by the enacting State] in a manner that enables the information to be retrieved by the Registry.

Clause 23 – Correction of errors made by the Registry

1. If the Registry discovers that it erroneously removed from the public registry record information contained in a registered notice, a notice must be registered by the Registry without delay to restore the erroneously removed information. The Registry must send a copy of the information in the registered notice to the persons identified in the notice as the transferor and the transferee.

2. The registration of a notice referred to in paragraph 1 is effective as of the time it would have been effective if the information had never been erroneously removed.

3. Notwithstanding paragraph 2, a transfer to which the notice relates is subordinate to the right of a competing claimant that acquired a right in the transferred receivable in reliance on a search of the public registry record made before the notice was registered, provided the competing claimant did not have knowledge of the erroneous removal of the information at the time it acquired its right.

Clause 24 – Limitation of liability of the Registry

Any liability that the Registry may have in accordance with other law for loss or damage caused by an error or omission in the administration or operation of the Registry is limited to [a maximum amount to be specified by the enacting State].

Clause 25– Registry fees

1. Fees may be charged for Registry services in the amounts to be specified by [the authority to be specified by the enacting State].

2. [The authority to be specified by the enacting State] may modify the fee schedule from time to time.