



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

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**UNIDROIT Working Group on the
Legal Nature of Verified Carbon Credits
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SECRETARIAT'S REPORT

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I. PRELIMINARY MATTERS

A. Background to the Project

1. On 24 January 2022, the International Swaps and Derivatives Association (ISDA) submitted a proposal to UNIDROIT recommending that UNIDROIT consider a project to analyse the legal nature of voluntary carbon credits. ISDA's proposal was expressly supported by the Government of Paraguay in a letter received by the UNIDROIT Secretariat on 9 May 2022.¹

2. At its 101st session (Rome, 8-10 June 2022), the UNIDROIT Governing Council unanimously recommended the inclusion of a project to analyse the legal nature and other private law aspects of voluntary carbon credits in UNIDROIT's 2023-2025 Work Programme, with high priority.² The Governing Council's recommendation was unanimously endorsed by the UNIDROIT General Assembly at its 81st session (Rome, 15 December 2022).³

3. Following receipt of the mandate, the UNIDROIT Secretariat organised an exploratory consultative workshop in collaboration with the World Bank Group (WBG) and ISDA, held at ISDA's headquarters in London on 27 March 2023. The purpose of the workshop was to identify relevant private law issues in the field of voluntary carbon credits with a view to begin delineating, albeit preliminarily, the scope of the project. A discussion paper was prepared by the Secretariat to guide the deliberations. The workshop was attended by 24 participants, including representatives from international organisations, industry associations, academic institutions, and private practitioners.

4. An update on the preparatory work of the project, drawing on the conclusions of the first exploratory consultative workshop as well as on the Secretariat's own research, was presented to the UNIDROIT Governing Council at its 102nd session (Rome, 10-12 May 2023). On this occasion, the Governing Council confirmed the authorisation to establish a Working Group in collaboration with the WBG. The Governing Council also encouraged further coordination in this area with other international organisations.

5. A second exploratory consultative workshop was held at the WBG's office in Vienna on 11 July 2023. The second workshop was attended by 28 participants, including experts from international organisations, development banks, academic institutions and the private sector. The workshop closed with the participants noting that next steps would be delineated in coordination with UNCITRAL in light of UNCITRAL's 56th Commission Session (Vienna, 3-21 July 2023) and the Colloquium on Climate Change and the Law of International Trade organised by the UNCITRAL secretariat (Vienna, 12-13 July 2023).

6. During its 103rd session in May 2024, the Governing Council received an update from the Secretariat concerning the first two sessions of the Working Group and the considerable work that had been carried out in the intersessional period, including the close collaboration with UNCITRAL (see below section I.B). Given the significant interest that the project had generated, the Governing Council granted the Secretariat flexibility to establish a Consultative Committee to ensure domestic and regional feedback throughout the process of development of the future instrument. The Governing Council also approved changing the project title to the "Legal Nature of *Verified* Carbon Credits (VCCs)."⁴

7. At its 105th session held in Rome on 20-23 May 2025, the Governing Council took note of the substantial advancements made since the 103rd session, including with respect to the drafting of a

¹ For more information on the content of ISDA's proposal, see document [UNIDROIT 2022 – C.D. \(101\) 4 rev.](#)

² [UNIDROIT 2022 – C.D. \(101\) 4 rev.](#), paras 50-60.

³ [UNIDROIT 2022 – A.G. \(81\) 3](#), paras 75-78.

⁴ [UNIDROIT 2024 – C.D. \(103\) 30](#).

set of private law principles and commentary, the establishment of a Consultative Committee, and the ongoing efforts to cooperate with the Hague Conference on Private International Law (HCCH) on the development of an applicable law provision.

B. Organisation of the work

1. Working Group

8. Consistent with UNIDROIT's established working methodologies, the VCCs Working Group is composed of experts selected for their expertise in the fields of carbon credit trading, environmental law, property law, contract law, secured transactions, and digital technology. Experts participate in a personal capacity and represent the world's different legal systems and geographic regions. Due to the specific nature of the project, particular focus is placed on ensuring representation from developing economies, especially from the African, Latin American, and Asia-Pacific regions, where many of the climate mitigation projects giving rise to VCCs are situated.

9. UNIDROIT Secretary-General Professor Ignacio Tirado chaired the first two sessions of the Working Group. Professor Hideki Kanda, UNIDROIT Governing Council Member and Emeritus Professor at the University of Tokyo, Japan, has since been appointed Chair of the Working Group.⁵

10. To date, the Working Group is composed of the following expert members:

- Filippo Annunziata, Professor of Financial Markets and Banking Law, Università Bocconi Milano (Italy);
- Ipshita Chaturvedi, Legal Consultant, International Law Chambers (Qatar);
- Géraud de Lassus St-Geniès, Professor of Law, Laval University (Canada);
- Luca Enriques, Professor of Corporate Law, University of Oxford (United Kingdom);
- Louise Gullifer, Rouse Ball Professor of English Law, Chair of the Faculty of Law, University of Cambridge, Fellow of Gonville and Caius College (United Kingdom);
- Megumi Hara, Professor of Law, Chuo University (Japan);
- Caroline Kleiner, Professor of Law, University Paris Cité (France);
- Matthias Lehmann, Professor of Private Law, University of Vienna (Austria);
- Ludovino Lopes, Founding Partner, Ludovino Lopes Sociedade de Advogados (Brazil);
- Kelvin Low, Professor of Private Law, University of Hong Kong (People's Republic of China);
- Andrea Tosato, Professor of Law, SMU Dedman School of Law (United States of America);
- Rolf H. Weber, Professor of International Business Law, University of Zurich (Switzerland); and
- Xiaoping Zhang, Associate Professor of Law, Central University of Finance and Economics (People's Republic of China).

11. The project on the legal nature of verified carbon credits (the VCC Project) is carried out in cooperation with the World Bank Group who has designated representatives to the Working Group. In addition, government and international organisations, industry associations, legal practitioners, financial sector representatives and members of academic institutions with expertise in the field of VCCs and private law have joined the Working Group as institutional observers:

⁵ See UNIDROIT 2024 – C.D. (103) 11, para 10.

- United Nations Commission on International Trade Law (UNCITRAL);
- Hague Conference on Private International Law (HCCH);
- American Carbon Registry (ACR);
- Asian Development Bank (ADB);
- Asia-Pacific Financial Forum (APFF);
- Environmental Defense Fund (EDF);
- European Law Institute (ELI);
- Food and Agriculture Organization of the United Nations (FAO);
- Frank J. Guarini Center on Environmental, Energy and Land Use Law at New York University School of Law;
- Global Carbon Market Utility (GCMU)
- Haut Comité Juridique de la Place Financière de Paris (HCJP);
- Inter-American Development Bank (IADB);
- International Bar Association (IBA);
- Integrity Council for the Voluntary Carbon Market (ICVCM);
- International Emissions Trading Association (IETA);
- International Law Institute (ILI);
- International Organization of Securities Commissions (IOSCO);
- International Swaps and Derivatives Association (ISDA);
- Kita Earth Limited;
- Ministère de l'Environnement et des Ressources Forestières, République Togolaise;
- National Bank of Georgia;
- Nigerian Securities and Exchange Commission (SEC);
- Organization of the Petroleum Exporting Countries (OPEC);
- Pollination;
- Puro.Earth;
- S&P Global Commodity Insights;
- Scotia Group;
- Stock Exchange of Thailand;
- TOSCA Research Group, Centre for Responsible Digitalization;
- Uniform Law Commission (ULC);
- United Nations Framework Convention on Climate Change (UNFCCC);
- Verra; and
- West African Alliance on Carbon Markets and Climate Finance.

12. The following individuals have joined the Working Group as observers, in a personal capacity:

- Dessanin Ewèdew Thierry Awesso, Teaching Assistant, Université Côte d'Azur (France);

- Başak Başoğlu Kapancı, Associate Professor of Civil Law, Pîrî Reis University, Former Sir Roy Goode Scholar, Türkiye;
- Malik R. Dahlan, Emeritus Professor of International Law and Public Policy, Queen Mary University of London (United Kingdom);
- Lisa Demarco, Senior Partner and CEO, Resilient LLP (Canada);
- Reginald Karawusa, Immediate Past Executive Commissioner, Legal and Enforcement Directorate, Nigerian Securities and Exchange Commission (Nigeria);
- Isabelle Laskero, Research Assistant to Prof. Nestor M. Davidson, Fordham University School of Law, United States of America
- Diletta Lenzi, Former Sir Roy Goode Scholar, Italy;
- Antonio Leandro, Full Professor of International Law, Department of Economics, Management and Business Law, Italy;
- Blanca López Bassa, Chief Legal Officer, Paskay (Peru);
- Gabriela Melgarejo, Researcher, Centro de Educación de Derecho, Economía y Política (CEDEP) (Paraguay);
- Jason Norman Lee, Managing Director, Legal & Regulatory, Temasek International Pte. Ltd (Singapore);
- Rodrigo Jesús Rodríguez Tornquist, Professor, Universidad Nacional de San Martín (Argentina);
- Sergey Sitnikov, Ph.D., Expert in international carbon policies and markets (Russian Federation);
- Ieva Steponaviciute, Director, Strategy & Outreach, Climate Action Data Trust, Germany;
- Munkh-Orgil Tseng, Member of the State Great Hural (Parliament) (Mongolia);
- Linda Yang, Executive Chairwoman, Yingke Global Board, Yingke Law Firm (People's Republic of China);
- Ingrid York, Partner, White & Case LLP (United Kingdom); and
- Peter Zaman, Partner, Holman Fenwick Willan LLP (Singapore).

13. Mr José Antonio Moreno Rodríguez, Member of UNIDROIT's Governing Council, as well as Ms Suzanne Howarth and Mr Antenor Madruga, respectively UNIDROIT Correspondents for Australia and Brazil, participate in the Working Group as observers.

2. Methodology and timetable

14. The Working Group undertakes its work in an open, inclusive, and collaborative manner. As consistent with UNIDROIT practice, the Working Group has not adopted any formal rules of procedure and seeks to make decisions through consensus. The Working Group meets at least twice a year for three days, generally at the seat of UNIDROIT in Rome, Italy. Meetings are held in English without translation. The documents for the Working Group meetings are generally distributed at least ten days in advance of each session. After each session of the Working Group, the UNIDROIT Secretariat shares a high-level summary of the meeting with all participants. The documents are also published on the UNIDROIT website.

15. The VCC Project was included as a high-priority project in the UNIDROIT Work Programme for the period 2023-2025. At its last session, the UNIDROIT Governing Council recommended that the VCC Project remain in the Work Programme for the 2026-2028 triennium, with high priority.

16. Since its inception, the Working Group has held five sessions and made considerable progress in the drafting of a soft law instrument. Three additional sessions are expected: two in 2025 and one in the first half of 2026. The Secretariat aims to present the instrument to the UNIDROIT Governing Council and General Assembly for adoption in 2026.

C. Working Group sessions and intersessional work

1. First Working Group session

17. The first session of the Working Group was held between 10 and 12 October 2023 at the seat of UNIDROIT in Rome and online and was guided by the Issues Paper prepared by the Secretariat.⁶ The session was attended by representatives of the WBG and UNCITRAL, as well as by ten Working Group members and 15 institutional and individual observers, comprising representatives from international organisations, industry associations, the private sector, and academia. The Working Group focused on clarifying the life cycle of a VCC, discussing the role played by independent carbon crediting programmes and registries, and identifying possible routes to concluding that VCCs can be the subject of proprietary rights, whether on the basis of their substance or their form.⁷

2. Intersessional work

18. The intersessional work carried out following the Working Group's first session included a subgroup meeting in December 2023 to advance in the consideration of the legal nature of VCCs and, more specifically, whether VCCs could be the subject of proprietary rights. In addition, close collaboration with the UNCITRAL secretariat continued, and a joint UNCITRAL/UNIDROIT meeting was held in Vienna in February 2024. The two organisations co-authored a Study on the Legal Nature of Verified Carbon Credits Issued by Independent Carbon Standard Setters (the "UNCITRAL-UNIDROIT Joint Study"). The UNCITRAL-UNIDROIT Joint Study sets out a mapping exercise in the area of VCCs to help States assess the options available to them in addressing relevant legal issues, in particular as regards the legal nature of VCCs.⁸ The UNIDROIT Working Group further met on 2 February 2024 at the WBG premises in Vienna and online, where it primarily discussed the type of instrument to be developed.⁹

3. Second Working Group session

19. The second session of the Working Group was held between 22 and 24 April 2024 at the seat of UNIDROIT in Rome and online. The session was attended by 50 participants, including representatives from the WBG and the HCCH, as well as legal experts and observers from international, regional and intergovernmental organisations, the private sector, and academia. The deliberations focused on the Revised Issues Paper prepared by the Secretariat based on the outcomes of the first session and the intersessional work carried out in the interim.¹⁰ The Working Group's discussion centred on the content of the future instrument to be developed. In particular, the Working

⁶ For additional details on the first session of the Working Group, see the Issues Paper ([Study LXXXVI – W.G.1 – Doc. 2](#)) and Summary Report ([Study LXXXVI – W.G.1 – Doc. 3](#)) prepared by the Secretariat.

⁷ See Summary Report of the first session of the Working Group, [Study LXXXVI – W.G.1 – Doc. 3](#).

⁸ UNCITRAL/UNIDROIT study on the legal nature of verified carbon credits issued by independent carbon standard setters, A/CN.9/1191, 14 March 2024, available at [1191_advance_copy_1.pdf \(un.org\)](#).

⁹ See Study LXXXVI – W.G.1 – Doc. 2 Add.

¹⁰ For additional details on the second session of the Working Group, see the Revised Issues Paper ([Study LXXXVI – W.G.2 – Doc. 2](#)) and Summary Report ([Study LXXXVI – W.G.2 – Doc. 3 rev.](#)) prepared by the Secretariat.

Group analysed the main steps in the life cycle of a VCC through a property law perspective to ascertain the proprietary nature of VCCs and the effect of transfers and dispositions in VCCs on a holder's proprietary rights. Among other things, the Working Group discussed the definitions of key terms to be included in the instrument and addressed issues pertaining to the registration, transfer, retirement, reversal and cancellation of VCCs. Of special relevance was consideration of the role played by independent carbon crediting programmes and registries, including in relation to the issuance and registration of VCCs. Representatives from Verra and Puro Earth, two leading independent carbon crediting programmes, delivered presentations to the Working Group, addressing, *inter alia*, how VCCs are issued, evidenced, individualised, transferred, encumbered, retired or otherwise cancelled. In addition, with input from the HCCH, the Working Group discussed relevant conflicts of law issues to be addressed in the instrument.

4. Intersessional work

a. Cooperation with UNCITRAL and the HCCH

20. During the intersessional period, the UNIDROIT Secretariat continued its collaboration with UNCITRAL and with the HCCH. In July 2024, the UNCITRAL-UNIDROIT Joint Study was presented to the 57th UNCITRAL Commission session and received positive feedback. The Permanent Bureau (PB) of the HCCH accepted an invitation from the UNIDROIT Secretariat to form an informal subgroup of experts (UNIDROIT-HCCH Informal Subgroup) to provide input to an applicable law provision in the draft UNIDROIT Principles on the Legal Nature of VCCs (the draft VCC Principles). The UNIDROIT-HCCH Informal Subgroup met remotely on 16 July 2024. The attendees included representatives from the UNIDROIT Secretariat and the PB of the HCCH, as well as the legal experts appointed by each institution. The participants discussed a preliminary timeline for further collaboration and document preparation and explored the potential scope of a provision on the law applicable to VCCs.

b. Establishment of the Drafting Committee

21. Following the second session of the Working Group, a Drafting Committee was established consisting of three individual experts¹¹ and two advisors to the Committee¹². The Drafting Committee met remotely on 27 May 2024 to discuss (i) the structure of the future instrument and division of work amongst the Drafting Committee members, (ii) the timeline for next steps of the Working Group, and (iii) whether the draft VCC Principles should address tokenisation and derivatives.

22. The Drafting Committee also met on 17 June 2024 to develop a preliminary text of the draft VCC Principles for the Working Group's review on 1 July. The Drafting Committee discussed, among other topics, the definition of 'VCC', the scope of 'verification', and the role of independent verifiers. The Drafting Committee also considered the 'accreditation process', the role of the 'project proponent', and the 'retirement' and 'cancellation' of VCCs.

23. On 1 July 2024, an intersessional Working Group meeting was held online to review the draft VCC Principles prepared by the Drafting Committee. The discussion primarily focused on Principle 2 (Definitions) and Principle 7 (Transfer), with the participants offering comments and suggestions on several key issues. These included the definition of 'VCC', the necessity of incorporating 'issuance of a VCC' within the definitions, distinguishing between a 'project' and a 'programme', and exploring the scope of 'the transfer of a VCC' as addressed in the instrument.

24. The Drafting Committee met again online on 17 July 2024. The Committee considered the format of the draft VCC Principles to be prepared for discussion during the third session of the

¹¹ Prof. Louise Gullifer (Chair), Prof. Andrea Tosato, and Prof. Kelvin Low.

¹² Mr Cameron Prell, Managing Director The dCarbon Group and WBG Consultant, and Ms Belinda Ellington, IETA representative.

Working Group. It also further explored the definitions of several terms in Principle 2 and considered matters related to VCC creation, transfer, and registry. Additionally, the Drafting Committee discussed and agreed to: (i) commence drafting an introductory section on the VCC life cycle and (ii) add sub-custody rules to draft Principle 10.

25. At a subsequent meeting on 31 July 2024, the Drafting Committee discussed provisions relating to a VCC's retirement, reversal, and revocation. The Drafting Committee considered separating the three concepts into different principles and discussed the role of buffer pools in the context of reversals. Additionally, the Drafting Committee decided to adjust the instrument structure to better align it with the VCC life cycle.

c. Establishment of the Consultative Committee

26. Consistent with the mandate sought from its Governing Council in May 2024, in August 2024 the UNIDROIT Secretariat invited the Institute's Member States to each nominate a maximum of two participants to the Consultative Committee for the VCC Project. The Secretariat indicated that the Consultative Committee would allow for a wider participation of experts worldwide, increase transparency, and provide invaluable context-specific feedback to the Working Group. The Consultative Committee is chaired by Ms Sharon Ong, Member of the UNIDROIT Governing Council and Director-General, Ministry of Law of Singapore.

5. Third Working Group session

27. From 4 to 6 September 2024, the third session of the Working Group took place in a hybrid format at the seat of UNIDROIT in Rome. Held in collaboration with the WBG, the session gathered 58 participants, including legal experts and observers from international, regional and intergovernmental organisations, as well as the private sector and academia. During the third session, the Working Group focused on refining the draft VCC Principles as iterated by the Drafting Committee.¹³ Key discussions centred on clarifying the main stages in the life cycle of VCCs, the definitions of fundamental terms, as well as other crucial aspects such as the creation, transfer, reversal, revocation, and retirement of VCCs. Additionally, the Working Group underscored the critical role of a VCC registry in promoting market transparency and considered the relevant custody rules associated with VCCs.

6. Intersessional work

28. During the intersessional period, the Secretariat continued its collaboration with the HCCH. On 27 November 2024, UNIDROIT and the HCCH convened another meeting of the UNIDROIT-HCCH Informal Subgroup to discuss the preliminary report prepared by the experts appointed by the HCCH.

29. On 16 December 2024, the Drafting Committee held an intersessional meeting which featured the participation of a representative from the industry to provide practical insights and perspectives. The discussion focused on several critical issues, including the insolvency of registry operators, the complexities of secured transactions involving VCCs, and matters regarding cancellation, revocation, and retirement of VCCs.

7. Fourth Working Group session

30. From 15 to 17 January 2025, the fourth session of the Working Group was convened in a hybrid format at the UNIDROIT seat in Rome. Held in collaboration with the WBG, the session gathered 59 participants, including legal experts, observers from international, regional and intergovernmental

¹³ For additional details on the third session of the Working Group, see the Issues Paper ([Study LXXXVI – W.G.3 – Doc. 2](#)) and Summary Report ([Study LXXXVI – W.G.3 – Doc. 4](#)) prepared by the Secretariat.

organisations, and representatives from the private sector and academia. During this session, the Working Group discussed the draft VCC Principles as iterated by the Drafting Committee.¹⁴ In particular, the Working Group focused on proposed language concerning registries, custody, and secured transactions. The Working Group also considered revised drafting in relation to the principles governing the creation, cancellation, revocation, transfer, and retirement of VCCs, as well as the definition of key terms.

8. Intersessional work

31. On 28 February 2025 the Consultative Committee was formally established. Chaired by Ms Sharon Ong, Member of the UNIDROIT Governing Council and Director-General, Ministry of Law of Singapore, the Committee is made up of 30 experts appointed by 19 UNIDROIT Member States. The main objective of the Consultative Committee is to provide the Working Group with advice, comments, and relevant information from a domestic and/or regional perspective as the work on the future instrument evolves.

32. At its meeting in March 2025, the Council on General Affairs and Policy (CGAP) of the HCCH mandated the establishment of an Expert Group (EG) to study the private international law (PIL) issues arising from carbon markets with an initial focus on the possible inclusion of an applicable law provision in the draft UNIDROIT Principles on Verified Carbon Credits.¹⁵ Responding to the HCCH PB's invitation, the UNIDROIT Secretariat designated three experts to sit as observers to the HCCH EG.¹⁶

33. The Drafting Committee continued its work revising the draft VCC Principles on the basis of the feedback of the Working Group. In addition, the Drafting Committee, together with the Secretariat and under the guidance of the Working Group Chair, Professor Kanda, thoroughly revised the structure and numbering of the draft VCC Principles.

9. Fifth Working Group session

34. The fifth session of the Working Group was held at the seat of UNIDROIT in Rome and online from 2 to 4 April 2025. Held in collaboration with the WBG, the session was attended by 61 participants, including representatives from international, regional, and intergovernmental organisations, as well as from the private sector and academia.

35. With the benefit of expert presentations from the Global Carbon Market Utility (GCMU), the Climate Action Data (CAD) Trust, Mr Cameron Prell (WBG consultant), and Professor Dominik Skauradszun (representing the TOSCA project of the Centre for Responsible Digitality), the Working Group discussed the topics of registry interoperability and tokenisation and considered the extent of their impact on the draft instrument. The Working Group also considered the iterated draft VCC Principles.¹⁷ In particular, the Working Group addressed proposed changes to the provisions concerning cancellation, revocation, and reversal, as well as additional language on secured transactions.

10. Intersessional work

36. Following its fifth session, the Working Group participants were asked to provide further comments (if any) on the draft VCC Principles in writing by 30 April 2025.

¹⁴ For additional details on the fourth session of the Working Group, see the Issues Paper ([Study LXXXVI – W.G.4 – Doc. 2 rev.](#)) and Summary Report ([Study LXXXVI – W.G.4 – Doc. 5](#)) prepared by the Secretariat.

¹⁵ See HCCH CGAP 2025, Conclusions and Decisions 14-16, available at <https://assets.hcch.net/docs/1828feba-831f-4f6f-a95e-6286e0495057.pdf>.

¹⁶ Professor Matthias Lehmann, Professor Antonio Leandro, and Ms Giulia Previti (UNIDROIT Legal Officer).

¹⁷ For additional details on the fifth session of the Working Group, see the Summary Report ([Study LXXXVI – W.G.5 – Doc. 3](#)) prepared by the Secretariat.

37. The first meeting of the HCCH EG was held from 13 to 15 May 2025. The three UNIDROIT-designated experts attended the meeting remotely. Ms Giulia Previti delivered a presentation introducing the HCCH EG to UNIDROIT, its working methodology, and the VCC Project. Prof. Lehmann and Prof. Leandro introduced the HCCH EG to draft Principle 4 concerning applicable law.

38. Following the fifth Working Group session and the receipt of written comments by Working Group participants, the Drafting Committee and the Secretariat further iterated the draft VCC Principles. On 10 July 2025, the UNIDROIT Secretariat shared the revised draft VCC Principles with the Consultative Committee, inviting the Committee members to provide their input in written form by way of comments and amendment proposals. The revised draft VCC Principles were also shared with the HCCH EG in advance of its second meeting, scheduled for 8 to 10 October 2025.

11. Next sessions of the Working Group and intersessional work

39. The sixth session of the Working Group is scheduled to take place from Wednesday 10 September to Friday 12 September 2025. At this session, the Working Group is expected to consider: (i) a set of revised draft VCC Principles; and (ii) the written feedback of the Consultative Committee.

40. The seventh session of the Working Group is scheduled to take place from 17 to 19 December 2025. The eighth, and possibly final, session of the Working Group is currently being scheduled, likely for early April 2026. The Secretariat aims to submit a full draft of the VCC Principles for consideration by the Governing Council and General Assembly in 2026.

D. General matters concerning the instrument

1. Relationship with existing international instruments

41. The VCCs Project is included in UNIDROIT's areas of work related to Sustainable Development and Law and Technology. The project aligns with UNIDROIT's ongoing initiative to analyse the role private law plays in the achievement of the United Nations Sustainable Development Goals, in particular towards the implementation of climate action. Because VCCs are often issued in the form of digital certificates, the project is complementary to the [UNIDROIT Principles on Digital Assets and Private Law](#) (the DAPL Principles) which establish clear rules relating to certain private law aspects of digital assets, with a focus on proprietary rights.¹⁸

42. UNIDROIT's previous work in the area of Capital Markets and Intermediated Securities, in particular the [Geneva Securities Convention](#), the [Principles on Close-Out Netting](#) and the [Legislative Guide on Intermediated Securities](#), may also be relevant to the analysis of the legal nature of VCCs. In addition, the Working Group may wish to consider the [Guide on Best Practices for Electronic Collateral Registries](#), developed by the Cape Town Convention Academic Project. Finally, the UNIDROIT [Principles for International Commercial Contracts](#) may be relevant for any contract law analysis.

43. The project may also draw on ongoing initiatives and existing instruments of UNCITRAL and the HCCH. For example, the project may draw on the [UNCITRAL Model Law on Secured Transactions](#) as well as the [1997 UNCITRAL Model Law on Cross-Border Insolvency](#) and the 2004 UNCITRAL Legislative Guide on Insolvency Law. The UNCITRAL secretariat continues to explore issues related to the applicable law in insolvency proceedings in the context of the ongoing efforts of Working Group V.¹⁹

¹⁸ In particular, the DAPL Principles cover digital assets which are capable of being subject to control, and they provide guidance on issues related to private international law, control and transfer, custody, secured transactions, procedural law including enforcement, and insolvency.

¹⁹ For additional information, see [Working Group V: Insolvency Law | United Nations Commission On International Trade Law](#).

44. Several projects of the WBG may also be informative. In particular, the WBG has been focusing on Emission Reductions Purchase Agreements (ERPAs), as well as carbon pricing and results-based climate finance projects. It is important to note the Climate Warehouse Project, which develops digital infrastructure to foster greater transparency, trust, and integrity in carbon markets. Examples include the metadata global platform Climate Action Data Trust ("CAD Trust").²⁰ Further, Scaling Climate Action by Lowering Emissions (SCALE) is an umbrella multi-partner trust fund within the results-based climate finance programmes of the WBG.²¹

45. Additional international initiatives and studies may be relevant and should be taken into account by the Working Group when developing the international instrument, to avoid duplication of efforts and overlap.²²

2. Target audience

46. As consistent with all UNIDROIT instruments, the prospective international instrument should be relevant to all jurisdictions irrespective of the legal tradition (e.g., both common law and civil law jurisdictions) and should aim to reduce the legal uncertainty which practitioners, judges, legislators and market participants face in relation to VCCs, including issues pertaining to the issuance, ownership and transfer of VCCs. In particular, the Working Group considers the potential use of any future instrument by developing countries, including in aiding jurisdictions with limited resources develop relevant international law frameworks to better participate in the VCM.

3. Format and structure of the instrument

47. Given the lack of a mandate to work on a hard law instrument such as an international convention or treaty, the Working Group considered soft law options. A model law was not considered suitable in light of the state of the market and the need to explain the nature of VCCs with reference to existing domestic frameworks. The Working Group instead agreed to focus on principles with commentary. It was observed that these types of instruments were likely to be the most appropriate considering the need for flexibility and guidance, as well as the desirability to offer greater clarity to the market through the use of commentary.

48. Currently, the draft VCC Principles are comprised of an introduction and nine sections which include 24 draft Principles as follows:

Section	Principles
Introduction	<i>Reasons for the Principles</i> <i>Typical life cycle of a VCC</i>
Section I: Scope and Definitions	<i>Principle 1: Scope</i> <i>Principle 2: Definitions</i> <i>Principle 3: General principles</i>
Section II: Private International Law	<i>Principle 4: Applicable law</i>
Section III : Creation and Transfer	<i>Principle 5: Creation</i>

²⁰ For additional information, see <https://climateactiondata.org/>.

²¹ In addition to those mentioned above, there are also a number of initiatives aimed at providing net-zero corporate guidance, including in relation to the use of crediting and VCCs. See UNCITRAL/UNIDROIT Joint Study, para. 73.

²² For a non-exhaustive list of relevant initiatives see, for example, the Issues Paper prepared by the Secretariat for the fourth session of the VCCs Working Group, available at <https://www.unidroit.org/wp-content/uploads/2025/01/Study-LXXXVI-W.G.4-Doc.-2-rev.-Issues-Paper.pdf>. See also UNCITRAL/UNIDROIT Joint Study, paras. 70-74.

Section	Principles
	<i>Principle 6: Transfer</i> <i>Principle 7: Innocent acquisition</i>
Section IV: Cancellation	<i>Principle 8: Cancellation</i> <i>Principle 9: Reversal</i> <i>Principle 10: Revocation</i> <i>Principle 11: Retirement</i>
Section V: Registry	<i>Principle 12: VCC Registry: Definitions</i> <i>Principle 13: VCC Registry</i>
Section VI: Custody	<i>Principle 14: Custody</i> <i>Principle 15: Duties owed by a custodian to its client</i> <i>Principle 16: Innocent client</i> <i>Principle 17: Insolvency of a custodian and creditor claims</i>
Section VII: Secured Transactions	<i>Principle 18: Secured transactions: general</i> <i>Principle 19: Registration in a VCC Registry as a method of achieving third-party effectiveness</i> <i>Principle 20: Control agreement as a method of achieving third-party effectiveness</i> <i>Principle 21: Priority of security rights in VCCs</i> <i>Principle 22: Enforcement of security rights in VCCs</i>
Section VIII: Procedural Law Including Enforcement	<i>Principle 23: Procedural law including enforcement</i>
Section IX: Insolvency	<i>Principle 24: Effect of insolvency on proprietary rights in VCCs</i>

4. Title

49. The title of the VCC Principles could, for example, be the 'UNIDROIT Principles on the Legal Nature of Verified Carbon Credits'. The Governing Council's endorsement would be sought for this title.

5. Terminology and translations

50. One of the challenges in the development of uniform law is ensuring that the instrument adopts a terminology which is sufficiently technical and precise, but also as neutral as possible as regards specific legal systems and accessible to users with different legal and linguistic backgrounds (or at least capable of translation into different languages). This is particularly important in the case of instruments aimed at providing guidance to national legislators.

51. More specifically, while the Working Group's only working language is English, consistent with UNIDROIT's practice the final instrument will be approved in two languages: English and French. Bearing this in mind, thought should be given to the best way to ensure that a consistent text is developed in both languages by the time of final approval of the instrument.

II. CONTENT OF THE VCC PRINCIPLES AND COMMENTARY

52. The draft VCC Principles as developed by the Drafting Committee and edited by the UNIDROIT Secretariat, present a draft of the future instrument. The sections below address the content of the instrument and raise questions that the Working Group may wish to consider at its sixth session. The Working Group is reminded that the draft black-letter Principles are to be read in conjunction with the draft Commentary. The Working Group is invited to comment on the Commentary as well as the draft Principles.

A. Introduction

53. The draft introduction addresses the reasons for the VCC Principles, underscoring the role of carbon markets in supporting climate finance, offering a brief description of the types of carbon markets and the instruments that are traded therein, and identifying the scaling of voluntary carbon markets as one of the main purposes of the instrument. The section also provides an introductory context to the VCC Principles by summarising the key steps in the typical life cycle of a VCC, namely: (i) generation and supply; (ii) secondary market trading; and (iii) use and retirement.

54. The Drafting Committee will be revising the draft introduction. An iterated draft will then be submitted for the Working Group's consideration.

B. Section I : Scope and Definitions

55. Draft Principle 1 confines the scope of the Principles to the private law relating to VCCs. In particular, the draft VCC Principles cover a subset of private law issues relating to VCCs. They focus on proprietary rights and specifically where VCCs are the object of dispositions and acquisitions, and where rights and interests in VCCs are to be asserted against third parties. The prospective instrument builds on UNIDROIT's work in the context of digital assets but adapts the proprietary framework to the specificities of VCCs. Like the DAPL Principles, the draft VCCs Principles are not meant to displace existing private law frameworks, but rather are intended to assist jurisdictions in taking a common approach by providing guidance on how to adapt existing law to account for the idiosyncrasies of VCCs.

56. Draft Principle 2 covers the main definitions of the draft instrument. The definitions are functional and developed solely for the purposes of their use in the Principles – they are not meant for general application or for the carbon market as a whole, though there is an attempt to use words consistently with the market.

Questions for the Working Group:

- *Is there a need to specify in Principle 2(8) that a verification statement can be negative as well as positive?*
- *If there is no such need, then the Working Group is invited to consider an alternative formulation of the definition of 'verification statement', namely: "'Verification statement', in relation to a VCC, means a statement that there has been an achievement of a reduction or removal as a result of the relevant carbon mitigation project in accordance with the applicable methodology and the relevant CC rules."*
- *The Working Group is invited to consider the proposed language at Principle 2(10) concerning a VVB.*
- *The Working Group is invited to consider the proposed language at Principle 2(12) concerning a CCB, as well as to provide guidance on the language at Commentary paragraph 2.17 concerning a CCB.*

- *Should registration of the project be included in the list of functions performed by a CCB at Principle 2(12)?*
- *Principle 2(12)(g) includes 'instruction of the VCC registry to credit the VCC in a registry account'. Should this be included as a function performed by the CCB?*
- *The Working Group is invited to opine on the proposed language concerning methodology at Principle 2(14).*
- *The Working Group is invited to consider Principle 2(16), (17) and (18)(a) in the light of the definition of 'environmental benefits' in 2(5) and (b) and in the light of Principles 8-11.*
- *Should the definition of 'other law' in Principle 2(20) be limited to a State's private law?*
- *'Avoidance' is currently addressed at Commentary paragraph 2.6, which provides that "the term 'removal' covers both the removal of, and the avoidance of an increase in, greenhouse gases equivalent to one tonne of CO₂ equivalent into the atmosphere". Is this sufficient or should 'avoidance' be included within the definition of removal in Principle 2(4)?*

57. Draft Principle 3(1) asserts that VCCs can be the subject of proprietary rights. Indeed, there is general agreement that, to attract the necessary scale of investment needed for VCCs to raise climate finance, VCCs have to be deemed property. From the outset, the Working Group focused on analysing whether and how VCCs could fit within existing proprietary law frameworks. At this stage, there is consensus that the attributes of property common to all legal families can be found in a VCC, since a VCC: (i) can be individuated; (ii) it can be controlled; (iii) it is rivalrous; and (iv) it can be transferred.

58. Just like in the DAPL Principles, draft Principle 3(1) does not prescribe any specific requirements for the acquisition of a proprietary right in a given VCC. Instead, draft Principle 3(4) makes it explicit that 'other law'—meaning the applicable domestic law—continues to apply to VCCs and to determine a number of important issues, including whether a person holds a proprietary right in a VCC, subject to limited exceptions.

Questions for the Working Group:

- *The text of Principle 3(2) (a definition of the term 'proprietary rights') was previously just included within the third sentence of paragraph 3.1 of the Commentary, and not in the Principles. Does the Working Group consider that it is sufficient to retain the text within the Commentary or should it be included in the Principles as well?*

C. Section II: Private International Law

59. Draft Principle 4 is expected to provide a conflict of laws rule for VCCs identifying only the law applicable to proprietary issues relating to VCCs. The draft Principle is to be developed in cooperation and coordination with the HCCH EG, as described above at section I.C.8.

Questions for the Working Group:

- *Should Principle 4(1) refer to 'proprietary law' or to 'proprietary issues'?*
- *The Working Group is invited to discuss the provisions relating to the law applicable to security rights in a VCC, keeping in mind the relationship with the innocent acquirer rule in Principle 7 and the priority rule in Principle 22.*
- *The Working Group is invited to consider the options provided in relation to the law applicable to VCCs maintained by a custodian.*

D. Chapter III: Creation and Transfer

60. Draft Principle 5(1) addresses the creation of a VCC, providing that a VCC comes into existence when a unique identifier has been allocated to the VCC and credited to an account in the registry. Draft Principle 5(2) provides that when a VCC first comes into existence, the person to first have a proprietary right in the VCC is either the registered holder of the VCC or, in cases of custodial arrangements, the person for whom the registered holder maintains the VCC.

Questions for the Working Group:

- *The Working Group is invited to discuss the references in Principle 5 and Commentary paragraph 5.2 to 'blocks' of VCCs.*
- *In reference to blocks of VCCs, Commentary paragraph 5.2 provides that "Principle 5 is simplified by referring merely to a single VCC, and the content applies mutates mutandis to each and every VCC in a block". Would this be the case even if the block has not been split, meaning that the VCCs in the block do not (yet) have individual identifiers?*

61. In draft Principle 6(1) and 6(2), *nemo dat* and shelter rules are established. These provisions are, however, qualified by draft Principle 7, which provides for the protection of innocent acquirers. The Working Group is in agreement that an innocent acquisition rule is needed to allow the market to scale. This is because in the absence of an innocent acquisition rule, the *nemo dat* rule would normally apply unexempted in the context of intangibles. Unexempted application of the *nemo dat* rule would be particularly burdensome in the case of VCCs, particularly when purchasing VCCs on the secondary market after the VCCs had been traded multiple times.

E. Section IV: Cancellation

62. Section IV addresses a VCC's cancellation and the categories of events that can lead to a VCC's cancellation. Under draft Principle 8, a VCC that has been cancelled ceases to be capable of being the subject of a proprietary right. Thus, upon cancellation, a VCC registry must not comply with any instruction to transfer or retire the VCC and it must record the VCC as cancelled. The categories of events that can lead to a VCC's cancellation are: (i) reversal; (ii) revocation; and (iii) retirement. While retirement is the voluntary cancellation of a VCC on the instruction of its registered holder, reversal and revocation are not and are typically carried out on the instruction of a crediting programme, a court, or a regulatory body.

63. Draft Principle 9 addresses the reversal of a VCC and draft Principle 10 addresses the revocation of a VCC. Cancellation for reversal occurs when the benefits of a carbon mitigation project or programme have been compromised post-issuance so that the VCC no longer "represents the achievement of a reduction in, or removal of, one tonne of CO₂ equivalent from the atmosphere". On the other hand, cancellation for revocation deals with matters leading up to issuance – *i.e.*, where it is subsequently shown that the benefits of a carbon mitigation project or programme were never achieved in the first place.

64. The Working Group has been discussing at length the consequences of cancellation for reversal and of cancellation for revocation and the related allocation of risk. Particular challenges are raised by the fact that a VCC is currently defined in the draft VCC Principles as representing the achievement of a certain climate mitigation outcome and that achievement may be lost during the often-lengthy lifespan of the underlying climate mitigation project or even subsequently demonstrated to have never existed. Concerns were thus raised by some Working Group participants in relation to provisions that appear to allocate the risk of loss to the VCC buyer or, in the case of revocation, that would render the VCC void *ab initio*. When considering these concerns, though, the distinction between (a) the proprietary consequences of cancellation (see Commentary 8.3) and (b) methods (consensual or otherwise) to deal with the allocation of loss (see, for example, Commentary 9.5 to 9.9) must be borne in mind at all times in relation to these provisions.

65. The Drafting Committee has revised draft Principles 9 and 10 with this background in mind and with the goal of balancing the need for predictability and certainty in market transactions with fundamental tenets of property law that would be common to most jurisdictions, since a set of Principles incompatible with such fundamental tenets may not be adopted by many jurisdictions.

Questions for the Working Group:

- *The Working Group is invited to consider Principle 8(3) and Commentary 8.3.*
- *The Working Group is invited to consider the revised Principle 9(2) and Commentary 9.2.*
- *The Working Group is invited to consider the revised Principles 9(4) and 10(4) and Commentary 9.4 and 10.5.*
- *The Working Group is invited to consider the revised waterfall provided at Principle 9(5), including the alternative default rules and Commentary 9.5 and 9.6.*
- *The Working Group is invited to consider the revised waterfall provided at Principle 10(6), including the alternative default rules and Commentary 10.7.*
- *The Working Group is invited to consider the possible inclusion of Principle 10(7) (which qualifies Principle 10(3)) providing that, when VCCs are shown to have not achieved the reduction in environmental benefits through the advance of scientific knowledge, instead of cancellation ab initio, revocation will treat the cancellation as effective from the time the VCC registry makes an entry of cancellation. See also Commentary 10.3, 10.4 and 10.8.*

F. Section V: Registry

66. Draft Principles 12 and 13 cover matters relating to VCC registries. Draft Principle 12 addresses definitions, while draft Principle 13 includes the core private law duties owed by a registry operator to a registered holder.

67. The Drafting Committee amended Commentary 12.2 and 12.6 to address the possibility of a VCC registry taking the form of a blockchain on a distributed ledger. These paragraphs make it clear that, in order to fall within the definition in Principle 12, a registry would have to be operated by a 'registry operator', that is, a legal person who exercised ultimate control over the registry and the information recorded therein.

68. Among other things, draft Principle 13 provides that the registry operator has no proprietary right in a VCC registered in the registry it operates, that a VCC registered in a VCC registry is not available for the satisfaction of claims of creditors of the registry operator, and that a registry operator must have a Recovery and Orderly Dissolution Plan providing for preservation of all entries on the VCC registry it operates if the registry operator enters into an insolvency-related proceeding.

Questions for the Working Group:

- *The Working Group is invited to consider the proposed language at Principle 12(1 bis) addressing the information that a person should be able to ascertain from a VCC registry. See also Commentary 12.5.*
- *The Working Group is invited to consider what, if any, further amendments are needed to the Commentary in the light of the discussion concerning tokenisation of VCCs.*
- *Does the Working Group agree that the duties of the registry include an obligation to comply with the rules of the CCB (see Principle 13(1)(a))?*
- *With regard to Principle 13(6), the Working Group is invited to consider who are the entities with whose instructions to cancel the Registry must comply.*

- *The Working Group is invited to discuss whether to include draft Principle 13(5) providing that a registry operator must have a Recovery and Orderly Dissolution Plan. An alternative would be to include a paragraph in the Commentary suggesting regulatory provisions to this effect.*
- *The words 'by debiting and crediting' have been added to Principle 13(7). Are they necessary?*

G. Section VI: Custody

69. The draft Principles set out private law principles relevant to custody of VCCs. Draft Principle 14 covers definitions, draft Principle 15 addresses the private law duties owed by a custodian to its client, draft Principle 16 is an adaptation of the innocent acquisition rule tailored to the context in which a person acquires VCCs through a custodian, and draft Principle 17 addresses the insolvency of a custodian, providing that a VCC maintained by a custodian for a client is not available for the satisfaction of claims of creditors of the custodian.

Questions for the Working Group:

- *The Working Group is invited to consider the draft Principles on Custody.*
- *Should pooling be addressed in Principle 15? (see Principle 15(2), Commentary 15.5 to 15.8)*

H. Section VII: Secured Transactions

70. Draft Principle 18 is an extension of Principle 3(1) (providing that VCCs can be the subject of proprietary rights). Since security rights are a subset of proprietary rights, it follows that VCCs can also be used as collateral in secured transactions, just like other types of movable assets. The draft Principles take a minimally invasive approach, introducing asset-specific rules in Principles 19, 20, and 21 to address the distinctive features of VCCs. The aim is to facilitate the integration of VCCs into existing secured transactions regimes without causing unnecessary disruption to well-functioning legal frameworks.

71. Draft Principle 19 establishes that, in addition to any other methods of third-party effectiveness that apply to a security right in a VCC under other law, a State should recognise that a security right in a VCC may be made effective against third parties upon the secured creditor becoming the registered holder of the VCC pursuant to an agreement between the grantor and the secured creditor. Draft Principle 20 establishes that, in addition to any other methods of third-party effectiveness that apply to a security right in a VCC under other law, a State should recognise a 'control agreement' as a method to make a security right in a VCC effective against third parties.

72. Draft Principle 21 addresses priority conflicts between secured creditors that have made their security rights effective against third parties through the methods specified in Principles 19 or 20 (crediting to a securities account or control agreement), while another secured creditor has used alternative methods recognised by other applicable law (such as registration). The draft Principle establishes a non-temporal priority rule: the secured creditor using the Principle 19 or Principle 20 methods will have priority even if these steps were taken after another creditor had already made its security right effective against third parties through registration or other means.

I. Section VIII: Procedural Law Including Enforcement

73. This is currently a placeholder; the draft Principle needs to be developed and discussed by the Working Group.

Questions for the Working Group:

- *The Working Group is encouraged to consider DAPL Principle 18 and whether it could be adapted to apply in the context of VCCs.*

J. Section IX: Insolvency

74. As with Section VIII, Section IX of the draft VCC Principles also needs to be developed further by the Working Group. The draft Commentary is an attempt to adapt the commentary to DAPL Principle 19 to VCCs.

Questions for the Working Group:

- *The Working Group is encouraged to consider the draft Principle and Commentary and what further revisions are needed to apply in the context of VCCs.*