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

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UNIDROIT Working Group
on Best Practices for Effective Enforcement

Tenth Session (hybrid)
10-12 March 2025

UNIDROIT 2025
Study LXXVIB – W.G. 10 – Doc. 4
English only
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SUMMARY REPORT

1. The tenth session of the Working Group established to prepare Best Practices for Effective Enforcement (hereinafter "the Working Group") was held in hybrid format – in person in Rome and remotely via Zoom – from 10 to 12 March 2025. The Working Group was attended by 26 participants, including members, observers from intergovernmental and other international and academic organisations, and representatives of the UNIDROIT Secretariat. A full list of participants is available in Annexe II.

Item 1. Opening of the session and welcome by the Chair and the Secretary-General

2. *The Secretary-General of UNIDROIT* and *the Chair* opened the session, welcoming all participants and expressing gratitude for their contributions, pointing to the meaningful progress which had been achieved for this session and to the approaching conclusion of the project, while at the same time warning that there was still much work to do in the coming months. *The Deputy Secretary-General of UNIDROIT* reiterated the words of welcome and gratitude for the commitment shown by the experts in producing a complete draft of the future instrument for the first time.

Items 2, 3. Adoption of the agenda and organisation of the session; Update on the status of the project (Study LXXVIB – W.G.10 – Doc. 2)

3. *The Deputy Secretary-General* updated the Working Group on the intersessional work done for the project, summarised in Document 2, and referred to Document 3, containing a complete draft of the whole instrument. The Drafting Committee's efforts, including frequent teleconference meetings and extensive revisions, with participation of additional members of the Working Group as required by the subject matter, had resulted in a completed first draft which was now submitted to the Working Group for discussion. While further modifications would be required, this milestone was recognised as a significant achievement.

4. The Deputy Secretary-General outlined next steps, indicating that the draft, with agreed-upon modifications, would be submitted to the Governing Council for endorsement in principle, while authorisation would also be sought to initiate a public consultation period, expected to commence shortly after the Governing Council meeting (20-23 May 2025). Informal consultations with key stakeholders, including the World Bank, HCCH, and UNCITRAL, would begin immediately, to facilitate internal reviews before the public consultation period. The goal remained that of finalising the instrument by the end of the year through a remote approval procedure.

Item 4. Consideration of the work in progress

(a) Part I. Enforcement by public authority

5. *The Chair* indicated that, given the time constraints, priority would be accorded to those recommendations presenting outstanding policy issues, while actual drafting would be deferred to the Drafting Committee.

Chapter I. Fundamental principles

Recommendation 3 – Party disposition

6. It was noted that the term "disposition" was used, in this context, to signify autonomy, in contrast to its usage in Part II, where it referred to actions for the realisation of the value of the collateral, such as the sale or lease of collateral. To avoid confusion, particularly for readers more familiar with the terminology of Part II, *one participant* suggested to clarify in the accompanying comments that the term had distinct meanings in each Part. While "disposition" encompassed different aspects of the same fundamental concept, the Working Group determined that no contradiction or confusion would arise from the use of the same term. The Drafting Committee would consider whether a brief clarification, such as "commonly referred to as party autonomy" being added in brackets, could assist non-expert readers, while ensuring that the document did not become overloaded with definitions.

Chapter II. Organisational principles of enforcement

Recommendation 7 – Use of technology, including artificial intelligence

7. It was suggested to include adjustments to the language for greater precision, such as replacing "consistent with" and querying the inclusion of "including AI" in the title. There was also a suggestion to specify the use of "automated procedures" or carried out by "automated systems", with a clarification on the distinctions among "digitised", "digital" and "automated", with "digitalisation" referring to the process and "digital" to the outcome. Additionally, it was recommended to use the term "new technology" instead of simply "technology" to better reflect current advancements.

Recommendation 8 – Enforcement management by parties and by enforcement organs

8. It was noted that there was confusion around the term "court district", as it might not fully convey the intended concept of geographical and administrative units for coordinating enforcement actions. The suggestion was to adjust the language to better express the idea, possibly using terms like "enforcement unit" or "administrative unit" instead of "court district". The Drafting Committee was tasked with refining the language, while acknowledging that it would be difficult to find an entirely fitting term.

Chapter III. Enforceable instruments

Recommendation 9 – The significance and regulation of enforceable instruments

9. It was suggested that "process" be preferred over "procedure" in enforcement discussions, with "procedure" still used in specific contexts.

10. It was also proposed to remove "registered" as a mandatory condition, as this was addressed in Recommendation 13. While registration was indeed agreed upon as the best practice, it might not be immediately feasible for all jurisdictions, so the introduction should highlight flexibility and

encourage incremental implementation. The Working Group opted to retain "registered" in Recommendation 9, as the system was based on registration, but revise Recommendation 13 to emphasise that registration was a mandatory precondition for enforcement. The commentary to Recommendation 9 should be updated to ensure consistency without repeating details from Recommendation 13, and the language in the commentary to Recommendation 13 should be softened. It should be clarified that legal systems that had already implemented case-management registries for civil procedure and enforcement could look to the best practices as a benchmark for their effective operation. A cross-reference to Recommendations 13 and 20 was suggested for clarity.

11. It was agreed that the law should specify the types of admissible enforceable instruments, but the level of detail recommended should be better explained. It was suggested to remove the phrase "in reasonable detail" to avoid confusion. The focus should be on clarity in the law, with detailed aspects like reliability thresholds addressed in Recommendation 10. The Drafting Committee was encouraged to clarify in the commentary that while some documents might not require extensive details, private documents might need stricter criteria. Ultimately, the Recommendation should ensure a clear legal framework, with further clarification in Recommendation 10.

Recommendation 10 – Types of Enforceable Instruments

12. It was suggested to move the list of examples from Paragraph (2) to the comments for clarity, and replace "may" with "should" to emphasise enforceability. Furthermore, the language in Paragraph (3) should be adjusted to reflect that notaries bore witness to authenticity, not content, and comment paragraph 9 should be clarified to note that notaries' responsibilities varied by jurisdiction. Additionally, ICSID settlements should be added and the HCCH Judgment Convention should be referenced in comment paragraph 4.

Recommendation 14 – Challenges to the registration and commencement of enforcement proceedings

13. It was suggested to amend the term "registered enforceable instrument" in line 3 to simply "enforceable instrument". Additionally, it was acknowledged that Recommendation 14 should be read in conjunction with Recommendation 79 to ensure consistency and coherence, as both dealt with challenges in enforcement proceedings.

14. A further drafting point was the suggestion to replace the term "legal cultures" with "legal traditions", which was more commonly used in comparative law. Additionally, there was a discussion about the role of enforcement organs in deciding on defects in substantive law or proceedings, with the consensus being that such decisions should rest with the court rather than the enforcement body.

Chapter IV. Information regarding the debtor's assets

Recommendation 15 – The duty of cooperation and the importance of effective means to obtain information

15. The Working Group proposed that the two duties delineated in Paragraph (2) of this Recommendation – namely, the implicit duty of disclosure and the duty of cooperation – be reiterated within the introduction to Chapter IV. Furthermore, the Working Group suggested that the Drafting Committee consider including a reference thereto in the title of Recommendation 15, in order to facilitate its location within the table of contents, particularly given that Recommendation 18 addressed sanctions for non-cooperation. The Working Group recommended that the Drafting Committee examine the implementation of these suggestions and their connection to Part III (which made explicit reference back to Chapter IV of Part I). It was thus agreed that the Recommendation's title should be amended from "The importance of effective means to obtain information" to "The duty of cooperation and the importance of effective means to obtain information".

16. Regarding Paragraph (7) of Recommendation 15, it was proposed that the commentary provide an interpretation that either strictly narrowed or potentially expanded the scope ("Enforcement organs should be authorised to use information contained in a debtor's extant disclosure statements in enforcement procedures commenced against that debtor by other creditors."). However, there was no consensus, as other participants expressed a preference for maintaining the current wording. The question was tabled for further clarification.

Recommendation 16 – Commencement of disclosure

17. It was observed that Paragraph (2) presented a potential conflict with the EU's General Data Protection Regulation (GDPR). Specifically, while the Recommendation suggested that enforcement authorities might access information from previous enforcement actions, the GDPR prohibited the use of information derived from precedents when the purpose for enforcement was unclear or limited to individual cases. Furthermore, it was noted that this provision might also contravene the French Civil Code pertaining to the explicit acquisition of data within court enforcement.

Chapter V. Digital Registration

Recommendation 19 – Digital registers or registration systems

18. The Working Group agreed to decide on one expression and use the same to refer "digital registers" or "registration systems" (or another term) in both the text and the title, for consistency.

19. The Working Group also agreed to add a clarification to paragraph 12 of the Comments, specifically that "different periods" referred to differential periods established by data protection laws regarding disclosure.

Recommendation 21 – Registration of sanctions for non-compliance with asset disclosure obligations

20. It was suggested that "registration" and "record" had the same meaning in this context. The Drafting Committee was tasked to check the consistency of the terms (and whether they referred to different actions).

21. It was suggested that, in view of its importance, the concept of a duty of disclosure be specifically mentioned as a general obligation in the introduction, using the same language.

22. It was moreover suggested that terminologies such as "general" versus "specific" and "regular" versus "irregular" be cautiously used.

Chapter VI. General modes of enforcement – Section 1. Monetary enforcement – Subsection 1.1. Enforcement on tangible movables

23. The Working Group agreed to rename the Chapter "General modes of enforcement" (previously "Regular").

Recommendation 24 – Seizure by taking control of movable assets

24. The Working Group discussed whether a clarification of the term "control" used here (notably also used in a different sense in Part III with regard to digital assets) should be added in the commentary. Such a clarification was considered to be useful for readers.

Recommendation 27 – Seizure of movable assets in the control of third parties

25. The Working Group suggested that the Drafting Committee consider the consistency of terminology ("movables" versus "movable assets", etc.), as well as whether to cover both tangible and intangible assets explicitly, or only to repeat the limitation to "tangible movables" found in the overarching Subsection 1.1 title.

Recommendation 28 – Realisation of the value of seized movable assets by enforcement organs

26. The Working Group discussed the need for Part I to also include rules on intangible movables that were not covered by third-party debt orders (Subsection 1.3) or Part III, which was limited to "controllable" records. Working Group participants expressed different ideas of how to draft parallel rules. Some suggested to develop a set of general rules to cover all future possible intangibles (in particular, data, which was admittedly of great value but did not lend itself well to existing asset categories); others suggested to add references or examples taken from existing precedents in domestic law (without expressly mentioning the specific domestic laws). The Group agreed to set parallel rules for intangible assets based on the general rules with regard to tangibles in Subsection 1.1 and the special rules for tangibles in Subsection 1.3, *e.g.*, assignability and transferability. Ultimately, the Working Group opted for the drafting of a general rule vis-à-vis intangibles in Recommendation 37.

Recommendation 33 – Third-party debtor opposition to the seizure of a claim and its enforcement

27. It was clarified that courts might decide *not* to grant a stay and that the normal timeline for resolving third-party claims should follow standard procedural law, but with a view to preventing delay.

28. The Working Group advised the Drafting Committee that the description of the term "family" be moved from comment paragraph 1 to Recommendation 26, as long as the context was the same.

Recommendation 35 – Electronic Automation of the third-party debt order procedure

29. The Working Group agreed to delete "electronic" or "digital" and so forth before "platform", "automation", and "register", finding no need to so qualify these terms and opting to facilitate technological neutrality. It was agreed to add some explanation on terminology to the Chapter's introduction.

Chapter VI – Section 1 – Subsection 1.3. Enforcement on rights or legal positions in special cases

Recommendation 39 – Partners' interest in partnership

30. The Working Group discussed the enforcement of economic rights within partnerships and similar business entities. It was emphasised that enforcement should focus on the economic value of a member's interest, specifically dividends and liquidation value, rather than managerial rights. This approach aligned with the legal framework in many jurisdictions, where partnership agreements and national regulations dictated the treatment of membership rights.

31. To enhance clarity, the Drafting Committee was advised to refine the text to ensure that enforcement procedures referred to the economic nature of membership interests. Highlighting the necessity of consistency between partnership law and enforcement law, particularly regarding priority

rights for other shareholders or partners, the Working Group agreed on adding a comment with regard to consistency with substantive law.

Recommendation 40 – Interests in a limited liability partnership, limited liability corporations and their functional equivalent

32. The discussion focused on the implications of enforcing on ownership stakes in such business entities. The Working Group recognised that articles of association often regulated the transfer of ownership interests, typically granting preferential rights to existing shareholders. It was agreed that public sales should be an exception rather than the default mechanism. In the case of public sales, the interests were usually seized by creditors with the intent to sell while the other shareholders had a preferential right to buy.

33. The proposal to delete a comment regarding the necessity of finding a new partner was raised, with differing opinions on whether enforcement bodies should consider the suitability of transferees. Ultimately, it was agreed that the Drafting Committee should refine the language to balance enforcement needs with the integrity of partnership structures.

Recommendation 41 – Intellectual property rights

34. The Working Group debated the appropriateness of including "copyright" in the title, considering that was a subset of intellectual property rights. *Some participants* argued that "intellectual property rights" alone would be sufficient, while *others* maintained that the distinct treatment of copyright in Paragraphs (6) and (7) justified its explicit mention in the title. The matter was deferred to the Drafting Committee for resolution.

35. There was also extensive discussion on Paragraph (6), particularly regarding the requirement for the copyright holder's consent before seizure. *Some participants* questioned the necessity of prior consent, arguing that seizure could proceed with notification to the copyright holder post-seizure. *Others* highlighted that blocking the use of copyright without prior consent could be problematic. It was agreed that advice from intellectual property experts would be sought.

36. Additionally, concerns were raised about the distinction between "copyright holder" and "owner" in Paragraph (7). The Working Group noted that multiple parties could hold different aspects of copyright (e.g., authors and publishers), making it challenging to capture all potential situations in a single provision. Again, further expert input was recommended.

37. The issue of the treatment of trademarks under enforcement law was also raised. The discussion included whether enforcement law should address situations where trademarked goods were seized but lost significant value if the trademark was removed (e.g., designer items). It was concluded that this issue primarily fell under trademark law rather than enforcement law.

Recommendation 43 – Claims secured by collateral or guarantee

38. The discussion centred on whether a single act of seizure sufficed or if two acts (one for the claim and another for the collateral) were necessary, depending on the legal nature of the collateral. It was agreed that an explicit distinction be made between cases where the collateral automatically transferred with the claim and those where additional action was required. A proposal was made to clarify in the text that this Recommendation applied when the judgment debtor was a creditor on a claim against a third party, ensuring that the collateral securing that claim followed its enforcement. The Working Group agreed to add to both the black-letter rule and the title that this Recommendation indeed referred to claims that were *seized*.

39. Minor wording adjustments were also suggested to improve clarity. It was also recommended that the term "collateral" replace "securing charged movables and securing charged intangibles" to align with existing terminology in international instruments. This issue of terminology was however deferred to the Drafting Committee.

Chapter VI – Section 1 – Subsection 1.4. Monetary enforcement on immovables

40. The Working Group addressed the terminology and conceptual scope of immovable property within enforcement proceedings, agreeing to harmonise the terminology ("immovables" instead of "immovable property", "real estate", or "immovable assets")..

Recommendation 44 – Types of enforcement on immovables

41. A discussion emerged about whether an explicit definition of immovables was necessary. *Some members* argued that including comparative legal perspectives was essential for clarity, while *others* felt the text should avoid excessive detail. *The Chair* emphasised that substantive law should define the scope of immovables, while (unnecessary) definitions should be avoided in the introduction since the black-letter rule stated that no definition was provided.

42. It was agreed that the introduction should state that the scope of "immovables" was a matter of substantive law and generally included land, buildings, and rights over land. The Drafting Committee would revise the introduction to balance the need to steer away from substantive property law discussions with the need to provide a necessary context in the introduction.

43. There was also discussion on whether foreclosure and other private enforcement mechanisms should be referenced. It was concluded that while this Recommendation focused on public enforcement, a cross-reference to the relevant provisions in Part II should be added.

Recommendation 45 – Seizure by order of an execution court or enforcement organ

44. The Working Group examined the role of land registration systems in the enforcement of immovables. *The Chair* emphasised the need for consistent terminology to avoid confusion.

45. The function of land registries in enforcement was a major point of discussion. In many jurisdictions, land registration was utilised as a crucial mechanism for ensuring creditor transparency and security. Legal certainty was provided by establishing clear ownership rights and preventing fraudulent transactions. However, it was noted that not all legal systems possessed comprehensive registries, and enforcement procedures had to account for such variations. General agreement was reached that the commentary should briefly reflect the diversity of national systems while acknowledging international trends toward greater transparency in land registration. *The Deputy Secretary-General* noted that the issue of land registration was addressed in other instruments developed by UNIDROIT, in particular those relating to contracts in the field of agriculture, that should be briefly referenced in respect to the international trend towards transparency.

46. The legal effects of registration, such as whether registration constituted proof of ownership or merely a notice system, were also considered. Arguments were made that these distinctions were substantive law matters and should not be covered by the Recommendation. *Others* believed that a brief clarification in the commentary would assist enforcement bodies in understanding the implications of registration in diverse jurisdictions. Ultimately, the Drafting Committee was instructed to refine the language to ensure that the role of land registries in enforcement was clearly articulated while maintaining flexibility to accommodate diverse legal traditions.

Recommendation 46 – The legal effects of seizure

47. The Working Group examined the circumstances under which transactions related to seized immovables could be void or voidable. A key point of discussion was ensuring that enforcement sales provided security to purchasers while allowing challenges in cases of fraud or serious irregularities. It was agreed that the wording should align with international best practices and ensure consistency across legal systems.

48. There was also a debate on whether enforcement authorities should be granted discretion in determining the validity of transactions post-seizure. The general consensus was that clear criteria should be established to prevent unnecessary litigation while protecting legitimate interests.

Recommendation 47 – The scope of seizure

49. The Working Group examined the enforcement of insurance claims and third-party rights, particularly whether insurance claims related to immovables should be seized as part of the property or through a separate third-party debt order. Arguments were made that insurance claims served as surrogates for the immovable and should be automatically included in its seizure, ensuring continuity in enforcement. Alternatively, the practical necessity of notifying the insurer separately was emphasised, suggesting a third-party debt order as a more transparent and efficient mechanism. To accommodate different legal systems, the Drafting Committee was tasked with refining the text, ensuring both approaches remained viable, depending on national legal frameworks. The Recommendation should recognise both seizure-based attachment and third-party debt orders as valid mechanisms for insurance claims; Paragraph (2) of the black-letter rule and the comment with regard to "surrogate" would be duly adjusted.

50. Another discussion focused on the treatment of fixtures, buildings, and accessories under Paragraph (3). Concerns were raised regarding the ambiguity of the phrase "immovables in buildings on land", as it might not reflect varying legal traditions. It was noted that in some jurisdictions permanently installed fixtures became part of the immovable, while in others, they could retain a separate legal identity. Debate ensued as to whether enforcement should distinguish between natural fixtures, which were inseparable from the property, and movable accessories, which might be subject to independent claims. To ensure clarity, the language had to be refined, ensuring that substantive national law determined these distinctions.

Recommendation 48 – Realisation of the value of seized immovable assets

51. The Working Group extensively discussed the balance between public and private sales, particularly in the context of using modern technology and online auctions. It was agreed that online platforms should be explicitly referenced in the Recommendation and that enforcement authorities should have flexibility in choosing the most effective sales method.

52. A key debate emerged regarding the finality of sales conducted under enforcement proceedings. *Some members* supported a strong presumption against voidability to ensure stability, while *others* advocated for maintaining avenues for challenge in cases of fraud or gross procedural defects. The Recommendation was revised to ensure that any challenges would be limited to exceptional circumstances.

53. Further drafting refinements were suggested to clarify the role of enforcement authorities in determining the sale process and ensuring fair market value.

Recommendation 49 – Debtor eviction and protective measures – the position of debtors, debtor's families and third parties

54. Concerns regarding the relationship between Recommendation 49(4) in Part I and Recommendation 127(4) in Part II were voiced. A key issue identified was the impact of long-term leases on the value of immovables subject to enforcement. Permitting a long-term lease to continue post-seizure could significantly reduce the asset's market value. The need to limit interference with substantive priority rules to maintain legal certainty was also stressed.

55. The Working Group discussed differences between creditors finding an alternative solution over an enforced debt with this Recommendation's protection and secure creditors agreeing to enforcement out of court under a prior agreement.

56. The role of creditors in securing alternative housing for occupants was a significant point of discussion. Suggestions were made that creditors should be actively involved in finding new housing for families affected by enforcement actions. However, warnings were issued that such an obligation would place an undue burden on creditors, and that in a well-balanced system, such needs would be addressed by different means (e.g., social services, public supportive actions, etc.). It was also noted that, in practice, banks and financial institutions often engaged in informal negotiations to find solutions. The Working Group finally determined that it was preferrable to encourage the creditor to play an "active" role, though recognising that results were often lacking. The principle of proportionality was highlighted as a guiding factor, and it was noted that courts and enforcement officers played a role in contacting social services where necessary. Additionally, the Working Group agreed that the language should be refined to balance enforcement efficiency with social protection.

Recommendation 50 – Receivership of immovables

57. The discussion covered the allocation of costs and fees associated with enforcement proceedings. The Working Group emphasised that enforcement should not be excessively burdensome due to disproportionate costs and that cost structures should be transparent.

58. A key point of debate was whether costs should be recoverable from the proceeds of sale before distribution to creditors. The general consensus was that reasonable enforcement costs should be prioritised, but safeguards should be in place to prevent excessive deductions. Further refinement of cost allocation principles was delegated to the Drafting Committee.

Recommendation 51 – Securing enforcement by judicial mortgages or liens

59. The inclusion of such forms in the Recommendation was generally agreed upon, but doubts remained regarding their details, specifically concerning retention of the specific list of forms in the black-letter rule itself versus a purely functional description. It was suggested that the first Paragraph include a general description of the purpose behind such mechanisms, emphasising equivalence, with subsequent parts incorporating specific examples. The Drafting Committee was tasked to find an appropriate sentence.

Recommendation 52 – Online auctions

60. The Working Group noted that the possible risk of money laundering should be acknowledged here, as well as a discussion in the commentary of potential ways to counteract it. It was decided to insert "lawful" into the black-letter text and a discussion of compliance with anti-money-laundering regulations in the commentary.

61. Numerous adjustments to the text were agreed upon, including: opting for stronger language in Paragraph (1) to align it more with Recommendation 28(1), inverting the order of Paragraphs (3)

and (4), redrafting Paragraph (6) to highlight the two separate issues discussed (one being the participation of foreign bidders and the other being interoperability), and the possibility of adding a reference to pre-payment in the commentary.

62. Furthermore, the Working Group would reconsider the placement (introduction versus commentary) and frequency of references to the CEPEJ Guidelines.

(b) Part II. Enforcement of security rights

63. *The Reporter of Subgroup 2* explained that the Introduction to Part II had been written when Part II only dealt with movables. Now that Part II also covered immovables to some extent, the Introduction would need to be adjusted to reflect that.

Recommendation 120 – Expeditious relief to support nonjudicial enforcement; Recommendation 127 – Secured creditor's right to possession after default

64. It was noted that by the terms of Recommendation 120(1) it would not apply to eviction from an immovable (Recommendation 127(3)). *The Reporter of Subgroup 2* explained that the idea behind Recommendation 120 was to hasten that which could already be done. *The Reporter of Subgroup 1* interpreted Recommendation 120 as catalyst for the debtor to fulfil the underlying security agreement based on *in personam* measures, which had not been envisaged by the common law with regard to security agreements. The applicability of Recommendation 120 to situations where the debtor or his family refused to leave the residential property was discussed. Reference was made to the protections provided for ("reasonable delay" in Rec. 127(2), and to the conditions imposed in granting regulatory provisional measures in Rec. 120(6)). Additionally, Recommendation 126(3) was identified as a source of protective rights ("The rights of the creditor are subject to defences and limitations on the creditor's remedies, as provided for by substantive law to protect debtors and grantors, especially when the collateral is the grantor's residence") which could also be helpfully cross-referenced.

(c) Part III. Enforcement on digital assets

65. One general policy question discussed was how to address the instrument's overlaps (and possible gaps) in coverage of some types of assets among the various Parts: for example, intangibles were covered by Part I and certain provisions of Part II, while Part III had been conceived with the specific category of "controllable" digital assets in mind. *The Reporter of Subgroup 3* asked the Working Group how these contours could be presented in the Introduction to Part III (or elsewhere) to reduce confusion for readers. It was further noted that every asset was covered by the instrument in a certain sense since it did not limit what could be seized but rather acknowledged which different challenges were posed by different classes of assets. Again, the tricky issue of data as an asset was discussed.

Recommendation 132 – Extraterritorial enforcement orders

66. It was suggested that States consider allowing enforcement organs to issue orders against foreign intermediaries. However, concerns over territorial sovereignty and international law were noted. A cautious, minimalist approach was advised, with emphasis on international cooperation. Receivership was indeed a possible tool, but its private nature would have to be emphasised to avoid sovereignty conflicts.

67. Furthermore, the Working Group acknowledged that the Drafting Committee would have to make some adjustments to align the language with other provisions.

Items 7, 8. Organisation of future work (including preparation for the formal consultation phase, timeline for consultation, and tenth session of the Working Group); Any other business

68. *The Chair* emphasised the necessity of finalising as comprehensive a draft as possible within the shortest feasible timeframe. The French version of the text was currently being processed, and both the English and French versions would be submitted to the Governing Council along with explanatory attachments. Observers would be granted a consultation period of approximately six to eight weeks in the second half of 2025 to review the texts. Prior to the open consultation phase, the Drafting Committee would engage in informal consultation with various legal stakeholders to ensure a well-informed process.

69. The final session of the Working Group was scheduled to take place in the early fourth quarter of 2025, during which the texts would be reviewed and the instrument finalised for approval. The exact dates would be determined based on the availability of members.

70. To effectively plan next steps, past project experiences were noted, highlighting the need for adequate consultation periods, ideally spanning two months, given the anticipated high volume of comments on enforcement matters. It was stressed that a full three-day, in-person Working Group session would be essential for processing these comments. Regarding finalisation, submission of the document to the Governing Council for approval and adoption, possibly via written procedure, was suggested to avoid delay until the 2026 session. Although non-binding, presentation of the instrument to the General Assembly in December 2025 for informational purposes was also proposed, subject to an assessment of feasibility.

Item 9. Closing of the session

71. The *Chair* and the *Secretariat* once again thanked all participants, and *the Chair* declared the session closed.

ANNEXE I

AGENDA

1. Opening of the session and welcome by the Chair of the Working Group and the Secretary-General

2. Adoption of the agenda and organisation of the session

3. Update on status of the project (Study LXXVIB – W.G.10 – Doc. 2)

4. Consideration of work in progress: Master Copy of draft instrument containing revised draft best practices on enforcement by public authority, enforcement of security rights, and enforcement on digital assets (Study LXXVIB – W.G.10 -Doc. 3)

5. Discussion on the content of Introduction

6. French version of the draft instrument

7. Organisation of future work

8. Any other business

9. Closing of the session

ANNEXE II

LIST OF PARTICIPANTS

EXPERTS

Ms Kathryn SABO (Chair)	Deputy Director General & General Counsel Constitutional, Administrative and International Law Section Department of Justice (Canada)
Mr Neil COHEN	1901 Distinguished Research Professor of Law Brooklyn Law School (USA)
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Mr Rolf STÜRNER	Emeritus Professor of Law, Albert-Ludwigs-Universität Freiburg (Germany)

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