



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
Seventh session (hybrid)
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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 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

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](#).

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 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. The Governing Council further recommended that the project on the legal nature of VCCs be maintained in the Institute's Work Programme for 2026-2028, with high priority, a recommendation which was endorsed by UNIDROIT's General Assembly.

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).

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

11. 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:

- 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;
- LACLIMA;
- Ministère de l'Environnement et des Ressources Forestières, République Togolaise;
- 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);
 - 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);
 - 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);
 - 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 Rodriguez, 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 project on the legal nature of verified carbon credits (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. UNIDROIT’s General Assembly endorsed this recommendation.

16. Since its inception, the Working Group has held six sessions and made considerable progress in the drafting of a soft law instrument. Two additional sessions are expected: one in December 2025 and one in April 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 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,

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 <https://docs.un.org/en/A/CN.9/1191>.

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.

retired or otherwise cancelled. In addition, with input from the HCCH, the Working Group discussed relevant conflict of laws 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 VCC Principles). The UNIDROIT-HCCH Informal Subgroup met remotely on 16 July 2024. The attendees included representatives from the UNIDROIT Secretariat and the HCCH PB, 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 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 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

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.

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 a second 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 an industry representative who provided 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 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 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.

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.

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.

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 31 experts appointed by 20 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 two PIL experts and one Secretariat representative 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.

37. The first meeting of the HCCH EG was held from 13 to 15 May 2025. The three UNIDROIT-designated representatives 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

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.

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. Sixth Working Group session

39. The sixth session of the Working Group was held at the seat of UNIDROIT in Rome and online from 10 to 12 September 2025. The session was attended by 58 participants, including representatives from international, regional, and intergovernmental organisations, as well as from the private sector and academia. In her capacity as Chair of the Consultative Committee, Ms Sharon Ong, Director-General, Ministry of Law, Singapore and Member of the UNIDROIT Governing Council, delivered a presentation to the Working Group outlining the feedback provided by the Consultative Committee. The Secretariat received comments from the appointees of 10 Member States: Austria, Canada, Chile, Finland, Italy, Pakistan, the Russian Federation, Saudi Arabia, Singapore, and Türkiye. The topic of applicable law was also discussed with the benefit of input from the HCCH.

12. Intersessional work

40. The Secretariat continued its collaboration with the HCCH on the development of an applicable law provision to be included in the VCC Principles as Principle 4. Held from 8 to 10 October 2025, the second meeting of the HCCH EG concluded with the agreement by consensus of the HCCH EG on a document comprising the HCCH EG's *Comments on and Intermediate Iteration of Principle 4 of the draft UNIDROIT Principles on Verified Carbon Credits* (see Annexe I). Following receipt of this document from the HCCH PB, the Secretariat convened a meeting of the sub-group on Private International Law of the Working Group (the PIL sub-group).¹⁸ To facilitate the Working Group's consideration of the HCCH EG's feedback, the Secretariat asked the PIL sub-group to: (i) review and comment on the HCCH EG's proposed language; and (ii) further iterate draft Principle 4 on the basis of the input received from the HCCH EG.

41. On 29 October 2025, the Secretariat shared for the Working Group's review and consideration two documents: (i) the HCCH EG's *Comments on and Intermediate Iteration of Principle 4 of the draft UNIDROIT Principles on Verified Carbon Credits*; and (ii) the comments of the PIL sub-group on the HCCH EG's proposal (see Annexe II). The latter document included the PIL sub-group's iteration of UNIDROIT's drafting of Principle 4 on the basis of the language proposed by the HCCH EG, in both redline (as against the Principle 4 draft discussed during the sixth session of the Working Group) and clean text. The Working Group was asked to review the above documents and provide any comments to the HCCH EG's *Comments on and Intermediate Iteration of Principle 4 of the draft UNIDROIT Principles on Verified Carbon Credits* in writing by no later than COB Monday 10 November 2025.

42. In parallel, on 31 October 2025, the Secretariat shared the PIL sub-group's proposed iteration of Principle 4 with the Consultative Committee, inviting the Committee members to provide their input in writing by 10 November 2025. Consistent with the timeline and procedure as agreed between the HCCH PB and the Secretariat, on 14 November 2025 the Secretariat shared with the HCCH PB the following documents, requesting that they be shared with the HCCH EG in furtherance of the ongoing cooperation on the possible inclusion of an applicable law provision in the draft VCC Principles:

- The comments of the PIL sub-group to the HCCH EG's proposal, including the PIL sub-group's iteration of UNIDROIT's drafting of Principle 4 on the basis of the language proposed by the

¹⁸ The PIL sub-group is made up of Prof. Matthias Lehmann, Prof. Antonio Leandro, Prof. Louise Gullifer, Prof. Andrea Tosato, Prof. Caroline Kleiner, and Mr Andrew Bernstein.

HCCH EG, in both redline (as against the Principle 4 draft discussed during the sixth session of the Working Group) and clean text (see Annexe II).

- The Working Group's comments on: (i) the HCCH EG's *Comments on and Intermediate Iteration of Principle 4 of the draft UNIDROIT Principles on Verified Carbon Credits*; and (ii) the comments of the PIL sub-group on the HCCH EG's proposal, including the PIL sub-group's iteration of UNIDROIT's drafting of Principle 4 on the basis of the language proposed by the HCCH EG, on a non-attributed basis (see Annexe III).
- The comments received from the Consultative Committee on the PIL sub-group's iteration of Principle 4, on a non-attributed basis, together with the initial reactions of the Principle 4 drafters (see Annexe IV).

43. The HCCH EG held its third meeting from 2 to 4 December 2025. A representative of the UNIDROIT Secretariat and one of the two UNIDROIT designated PIL experts were present in person. One UNIDROIT designated PIL expert connected remotely. In the afternoon of Tuesday, 2 December, the HCCH EG meeting was declared closed to observers, including UNIDROIT. The meeting was re-opened to observers at about 4:30pm on Wednesday, 3 December. At the re-opening of the session, UNIDROIT's representatives were informed that the HCCH EG had determined it was not in a position to support UNIDROIT's draft Principle 4 and that the HCCH EG had agreed to a text to submit to UNIDROIT. UNIDROIT's representatives at the HCCH EG sought clarification as to what this decision meant for the cooperation between UNIDROIT and the HCCH. The UNIDROIT representatives also reiterated that Principle 4 was not in any way final; it remained open and UNIDROIT was keen to receive the feedback of the HCCH EG for the consideration of its Working Group. UNIDROIT underscored how much it valued the open dialogue with the HCCH EG as well as UNIDROIT's keenness to find a common solution to the question of applicable law. To that end, UNIDROIT's representatives offered that UNIDROIT could move forward with the rest of the instrument while the two expert groups continued engaging on Principle 4. The UNIDROIT representatives noted that there were two further Working Group meetings scheduled—one from 17 to 19 December 2025 and one from 15 to 17 April 2026—and, if a solution could not be reached within this timeframe, there could be further opportunities for cooperation between April and December 2026, since UNIDROIT's Governing Council would exceptionally meet at the end of 2026 on the occasion of the Institute's Centenary. In response, UNIDROIT was informed that the HCCH EG had asked the HCCH PB to step back from its cooperation with UNIDROIT, and that the reasons would be provided in an *Aide Mémoire* and accompanying statement.

44. On 11 December 2025 the UNIDROIT Secretariat received from the HCCH PB a statement with the consensus position of the HCCH EG and an extract of the *Aide Mémoire*. On 12 December 2025 the UNIDROIT Secretariat wrote to the HCCH PB requesting that certain interventions of the UNIDROIT representatives at the HCCH EG be reflected in the *Aide Mémoire*.

13. Next sessions of the Working Group and intersessional work

45. The seventh session of the Working Group is scheduled to take place from Wednesday 17 December to Friday 19 December 2025. At this session, the Working Group is expected to focus, *inter alia*, on: (i) the iterated VCC Principles and Commentary; (ii) the iterated text of Principle 4 on applicable law in light of the input from the HCCH EG; (iii) the comments received from the Consultative Committee; and (iv) discussion of a possible annexe concerning tokenisation. The Secretariat plans to share the full iterated text of the draft VCC Principles and Commentary for the Consultative Committee's input following the December Working Group session.

46. The eighth session of the Working Group is scheduled to take place from 15 to 17 April 2025. The Working Group is expected to finalise the instrument at this session, taking into consideration any further input received from the Consultative Committee. The Secretariat will then share the final

instrument with the Governing Council in May 2026 and seek approval to conduct a public consultation to be carried out between June and October 2026.

D. General matters concerning the instrument

1. Relationship with existing international instruments

47. 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.¹⁹

48. 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.

49. 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.²⁰

50. 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").²¹ 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.²²

51. 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.²³

¹⁹ 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.

²⁰ For additional information, see [Working Group V: Insolvency Law | United Nations Commission On International Trade Law](#).

²¹ For additional information, see <https://climateactiondata.org/>.

²² 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.

²³ 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.

2. Target audience

52. 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

53. 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.

54. 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> <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>

Section	Principles
	<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

55. The title of the VCC Principles could 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

56. 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.

57. 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

58. The VCC Principles as developed by the Drafting Committee and edited by the UNIDROIT Secretariat, present a draft of the future instrument. Since the last Working Group session, the VCC Principles have been revised on the basis of feedback from the Working Group and the Consultative Committee. In particular, the following sections and Principles have been iterated:

- Introduction
- Principle 2 (definitions)
- Principle 4 (applicable law)
- Principles 8-11 (cancellation)
- Principle 13 (registry)
- Principle 23 (procedural law including enforcement)

59. The sections below address the content of the instrument and raise questions that the Working Group may wish to consider at its seventh 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

60. The draft introduction has been thoroughly revised to take into account comments received from the Working Group as well as the Consultative Committee. It now includes a new section addressing the Principle's neutrality and their relationship to national law. It then elaborates on 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) primary and secondary market trading; and (iii) use and retirement.

61. Following the last Working Group session, the Drafting Committee revised the draft introduction taking account of comments received from members of the Working Group as well as the Consultative Committee. An iterated draft is submitted for the Working Group's consideration at its seventh session.

62. Questions for the Working Group:

- *The Working Group is invited to review and comment on the revised introduction.*
- *The Working Group is invited to consider how best to address the relationship between the Principles and the UNFCCC, the Paris Agreement, and their related instruments, including how the Principles might apply when the VCCs are part of a compliance scheme, including in the context of Article 6.*
- *Should the introduction include examples of the duration of a verification period?*
- *Should the Principles cover avoidance credits?*

B. Section I : Scope and Definitions

63. Draft Principle 1 confines the scope of the Principles to the private law relating to VCCs. The draft VCC Principles 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.

64. Draft Principle 1 and its Commentary have not been iterated.

65. 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.

66. Since the last Working Group session, the Drafting Committee has, *inter alia*:

- Amended Principle 2(1) concerning the definition of a VCC to take account of the Working Group's discussion (see [Study LXXXVI – W.G.6 – Doc. 5](#) – Summary Report, paras 122-125) as well as comments from the Consultative Committee.
- Removed references to a 'positive' or a 'negative' verification statement.
- Removed the definition of 'environmental benefits'.
- Updated the definition of VVB to reflect that it is *approved* (rather than appointed) by the relevant CCB to carry out the verification process.
- Updated the definition of CCB, including by listing all of the functions to be performed by a CCB.
- Updated the definition of ICCP.
- Updated the definition of 'applicable methodology' as the methodology *approved* by the CCB as the methodology applying to that carbon mitigation project.
- Revised the definitions of 'reversal' and 'revocation' to refer, respectively, to the circumstances leading to the prospective and retrospective cancellation of a VCC, irrespective of the consent of the registered holder.

67. Questions for the Working Group:

- *The Working Group is invited to consider revised Principle 2(1) concerning the definition of a VCC, including use of the term 'mitigation achievement'.*
- *In relation to revised Principle 2(1), the Working Group is invited to consider whether the VCC should be enumerated as one tonne.*
- *The Working Group is invited to consider revised Principle 2(10) concerning the definition of CCB.*
- *Should cancellation for reversal or revocation be added to the list of what a CCB does?*
- *The Working Group is invited to consider Principle 2(19) concerning the definition of insolvency-related proceeding.*
- *In relation to blocks, should the commentary address safeguards to ensure that no double-counting occurs when the block is split?*
- *Should the term 'issuance' be defined in the Principles or should it be taken out altogether to avoid confusion?*

68. Draft Principle 3(1) asserts that VCCs can be the subject of proprietary rights. 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.

69. 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.

70. Draft Principle 3(4) has been revised in response to suggestions to align it with the provisions on secured transactions. Thus, Principle 3(4) currently provides that other law also applies to the priority of a security right in a VCC as against other security rights or other proprietary rights and to the enforcement of a security right in a VCC.

71. Questions for the Working Group:

- *The Working Group is invited to review and comment on the proposed iteration of draft Principle 3(4). It is suggested that this be considered together with the proposed revisions to the secured transactions principles.*

C. Section II: Private International Law

72. 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. UNIDROIT has sought the collaboration of the HCCH on the development of an applicable law principle limited to proprietary matters, as described above at section I.C.8.

73. As noted above, following its second meeting, the HCCH EG provided the UNIDROIT Secretariat with a document comprising the HCCH EG’s *Comments on and Intermediate Iteration of Principle 4 of the draft UNIDROIT Principles on Verified Carbon Credits* (see Annexe I). On the basis of said document, UNIDROIT’s PIL sub-group iterated Principle 4 (see Annexe II). In particular:

- i. In line with the proposal of the HCCH EG, the structure of Principle 4 was adapted to start with the scope of the Principle. However, rather than providing an enumerative list of issues covered, the choice was made to include all proprietary matters and then indicate the most relevant ones. This avoids legal uncertainty about the law applicable to proprietary matters that are not expressly mentioned in the list.
- ii. The suggestion of the HCCH EG to use the expression “proprietary matters” instead of “proprietary law” was accepted.
- iii. The term “cancellation” was used instead of “extinction” for internal consistency within the Principles and in particular Section IV.
- iv. The suggestion of the HCCH EG to speak of the “creation of the VCC” instead of the “creation of proprietary rights in a VCC” was accepted.
- v. Always in relation to the scope, the language in Principle 4(2)(a)-(c) was added on the basis of the HCCH EG proposal. Principle 4(2)(d) was also added in response to the suggestions of the HCCH EG, but the language was rendered more precise by clarifying that the law identified under Principle 4 will not govern substantive or procedural aspects of insolvency proceedings. At the same time, it was also made clear that the conflict-of-laws rule contained in this Principle should continue to apply after insolvency proceedings have been opened when it comes to determining the existence of proprietary and security rights in a VCC. Any other rule would undermine legal certainty, damage investor interests and endanger the financing of the carbon market.

- vi. The suggestion of the HCCH EG to use the term “*lex registri*” was accepted. A limited choice of law (rather than the unlimited choice of the operator proposed by the HCCH EG) was, however, kept to give the operator of the registry some flexibility where the *lex registri* is not entirely clear. An unlimited choice with regard to the applicable law is contrary to the principles of property law, which rely on objective factors. (The situation in the digital assets world is different as there is no *a priori* connection of the register to any specific State.) Third parties must be able to foresee the applicable property law, which is difficult where any law could be chosen. Also, a free choice of law may lead to a situation in which many different laws are applicable to VCCs recorded in the same registry, which would undermine the registry’s proper functioning. However, it is understood that parties retain the freedom to choose the law governing the account agreement, as permitted by the relevant regime relating to contractual obligations, which are not covered by the Principles.
- vii. As regards the existence and validity of the choice, a well-known rule was introduced that refers the matter to the same law as the one chosen, as if the choice were valid.
- viii. With respect to security rights, while acknowledging the importance of the UNCITRAL Model Law on Secured Transactions and the need to avoid contradictions, it was nonetheless deemed useful to include an express provision on security rights. The UNCITRAL Model Law was drafted before the emergence of VCCs, so that it may be unclear whether VCCs are covered by the UNCITRAL Model Law. For the law applicable to security rights, the location of the grantor was chosen as the relevant connecting factor. This factor is aligned with the same UNCITRAL Model Law.
- ix. As suggested by the HCCH EG, a reference was included to the overriding mandatory rules of the host State. A court in the country of the registry could therefore also take account of a possible reversal under the law of the host State. It is, however, necessary to give the court of the registry some leeway in this respect. In particular, this court should be able to verify if the rules of the host State are compatible with its own fundamental principles and with the international goal to protect the environment. In order to make it clear that this Principle does not affect the ability of the forum court to discard foreign laws and to apply overriding mandatory provisions, nor it endows the courts with powers they are already vested with, it was deemed more appropriate to avoid prescriptive provisions and only state that the Principle does not prevent courts from wielding such powers.
- x. Principle 4(10) was taken on from the HCCH EG proposal with minor changes.

74. The commentary to Principle 4 was not iterated pending further discussion of the revised Principle with the HCCH EG and the Working Group.

75. Given the HCCH EG closed session and subsequent decision to step back from cooperation with UNIDROIT, there was limited substantive discussion of Principle 4 during the third meeting of the HCCH EG. Among other things, the HCCH EG was unable to reach consensus on the question of party autonomy and certain EG members raised concerns with the law applicable to the grounds for revocation of a VCC. On this issue, it was noted that there could be a clash between sovereignty and the expectations of private parties if the host State of a carbon mitigation project cancelled the related VCCs but the VCC registry did not recognise the cancellation. Further, while agreeing on the importance of existing climate treaties such as the UNFCCC framework and the Paris Agreement, EG members expressed different views as to the most appropriate way to reference such instruments in the Principles. Certain EG members called for the climate treaties to be addressed in Principle 4 or in black-letter principles elsewhere in the instrument, while other EG members noted that the reference, while important, was not necessarily suited for black-letter principles. UNIDROIT representatives

explained that the current proposal was to refer to the climate treaties in the Introduction to the Principles since their relevance was paramount and not limited to Principle 4 (see Annexe II). They further explained that a soft law instrument such as the Principles would have no effect on binding State obligations, which would remain intact. Nonetheless, the UNIDROIT representatives further stated that, given the importance of this reference to certain EG members, such reference would be included in the instrument and its incorporation in the text of Principle 4 would be raised for the Working Group's consideration. The UNIDROIT representatives further offered that the EG members' specific feedback and questions on Principle 4 be shared with UNIDROIT in writing such that more comprehensive feedback could be provided to the HCCH EG.

76. Questions for the Working Group:

- *The Working Group is invited to consider the iterated draft of Principle 4.*
- *The Working Group is invited to consider the inclusion in Principle 4 of a rule regarding the timing of when the choice mentioned in Principle 4(1) is made.*
- *Concerns have been raised by States concerning the potential impact on sovereignty of a conflict of law rule based on the location of the registry rather than the project's host country. How can this apparent tension be addressed by the Principles?*
- *Should Principle 4 include a paragraph providing "This Principle is without prejudice to, and shall be applied in conformity with, the United Nations Framework Convention on Climate Change, the Paris Agreement, and their related instruments and outcomes"?*
- *Should the Principle expressly exclude from its application when the VCC becomes an Internationally Transferred Mitigation Outcome "ITMO" and is traded cross-border as part of an Article 6 cooperation?*
- *The Working Group is invited to consider the scenarios as identified in the Consultative Committee's comments to draft Principle 4.*

D. Section III: Creation and Transfer

77. 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.

78. Draft Principle 5 and its Commentary have not been iterated.

79. 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.

80. Draft Principles 6 and its Commentary has not been iterated. The Commentary to draft Principle 7 has been revised to address intra-group transfers, in response to comments from the Consultative Committee.

81. Questions for the Working Group:

- *The Working Group is invited to consider the revised language to the Principle 7 Commentary at paragraph 7.11.*

E. Section IV: Cancellation

82. 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.

83. At the last Working Group session, participants generally agreed with using an omnibus term to refer to the three concepts of reversal, revocation, and retirement, but disagreed on the most appropriate term to use. The Working Group discussed the benefits and disadvantages of the term 'extinction' and the term 'cancellation'. In support of the word 'extinction' it was observed that the main distinction between cancellation and retirement was the underlying claim—a cancelled VCC had no environmental claim backing it, whereas a retired VCC signalled that there had been an environmental objective that had been achieved. It was noted that the term cancellation was used in the market to refer to reversal and revocation but was not used to refer to retirement.

84. A provision was added in Principle 8 to make it clear that the principles in the section on cancellation are only intended to affect proprietary rights in relation to VCCs and not contractual rights, which are a matter for other law.

85. Questions for the Working Group:

- *The Working Group is invited to consider whether to use the term 'extinction' or 'cancellation' in relation to reversal, revocation, and retirement.*

86. Draft Principle 9 addresses the reversal of a VCC. The definition of reversal has been amended to provide that a reversal means the circumstances leading to the prospective cancellation of a VCC, irrespective of the consent of its registered holder, as set out in Principle 9(1). Principle 9(1), as iterated, provides that a VCC may be cancelled (or extinguished) for reversal where it no longer meets the definition of a VCC because of events after its creation. Principle 9(2) has been amended to reflect that a VCC may be cancelled (or extinguished) for reversal or for revocation by a CCB in accordance with the rules of the relevant registry, by a court, or by a competent authority determined by other law. The waterfall in Principle 9(5) has been revised in accordance with the Working Group's discussion, including with the deletion of LIFO and FIFO options.

87. The Commentary to Principle 9 has been revised to, *inter alia*:

- Specify that cancellation for reversal is not limited to instances where the benefits of a carbon mitigation project have been compromised post-issuance, but rather any post-issuance event that leads to a VCC no longer meeting the definition of a VCC under Principle 2(1) can trigger reversal.
- Clarify the impact of mechanisms such as the use of buffer pools.
- Elaborate on the revised waterfall mechanism provided for in Principle 9(5).

88. Questions for the Working Group:

- *The Working Group is invited to consider the iterated Principle 9 and its Commentary.*
- *Does the proposed revised language in the Commentary to Principle 9 address the concerns that have been raised in relation to the use of buffer pools?*

89. Draft Principle 10 addresses the revocation of a VCC. The definition of revocation has been amended to provide that revocation means the circumstances leading to the retrospective cancellation of a VCC, irrespective of the consent of its registered holder, as set out in Principle 10(1). Principle 10(1), as iterated, provides that a VCC can be cancelled (or extinguished) for revocation where it is subsequently demonstrated that it did not meet the definition of a VCC at the time that VCC was created.

90. Like Principle 9(2), Principle 10(2) has been amended to reflect that a VCC may be cancelled (or extinguished) for reversal or for revocation by a CCB in accordance with the rules of the relevant registry, by a court, or by a competent authority determined by other law. Also, Principle 10(6) has been revised in accordance with the Working Group's discussion, including with the deletion of LIFO and FIFO options. Following input from the Working Group, the reference to methodology in draft Principle 10(7) has been deleted.

91. Questions for the Working Group:

- *The Working Group is invited to consider the iterated Principle 10 and its Commentary.*
- *The Working Group is invited to consider the inclusion of Commentary 10.3bis.*
- *Are there any parties other than a VVB against whom VCC may carry rights?*
- *A suggestion has been made by the Consultative Committee to not have separate principles for reversals and cancellations but rather to bundle these two principles as some of the drivers for a single principle on cancellation. What are the views of the Working Group?*
- *Should the Principles provide for cancellation for re-issuance?*

F. Section V: Registry

92. Draft Principles 12 and 13 cover matters relating to VCC registries.

93. Draft Principle 12 addresses definitions, including the definition of 'VCC registry'. The Working Group has been debating over several sessions the extent to which the Principles should include any requirement that any information recorded on the VCC registry must be publicly accessible. In response to feedback from the Working Group, Principle 12(1 bis) has been deleted. The revised Commentary explains that the definition of a VCC registry in Principle 12(1) does not include any requirement that any information recorded on the VCC registry must be publicly accessible. It contrasts the VCC registry to the project registry. In the latter, details of carbon mitigation projects are recorded which makes key information about the project publicly accessible. On the other hand, the VCC registry records information about accounts to which VCCs are credited and debited, and it is not appropriate that such information is publicly accessible. A registry account holder can authorise the registry to release information about that account to any person, such as a prospective purchaser of VCCs.

94. Questions for the Working Group:

- *The Working Group is invited to consider the revised Principle 12 and its commentary.*
- *Does the Group agree with the approach to publicly accessible information?*

95. Draft Principle 13 includes the core minimum private law duties that a registry must owe to a registered holder for it to be a VCC registry within the Principles. Among other things, it 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. A new Principle 12(6) provides alternative language concerning a VCC registry's obligation to comply with certain instructions.

96. Questions for the Working Group:

- *The Working Group is invited to consider Principle 13 and its Commentary as iterated.*
- *The Working Group is in particular invited to discuss draft Principle 13(6) and the alternatives that have been provided: should anything be said about liability? Should Principle 13(6) be taken out altogether? Is it necessary for the proper functioning of the principles on reversal and revocation?*

G. Section VI: Custody

97. 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.

98. The custody principles have not been iterated but they are yet to be discussed by the Working Group.

99. 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)*
- *Should the term 'of the same description' be used in Principle 15(2)? What could be acceptable alternatives?*

H. Section VII: Secured Transactions

100. 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, 21, and 22(2) 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.

101. 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.

102. 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.

103. In its latest iteration, the section on secured transactions has been revised in response to comments from the Working Group, including from UNCITRAL, and from the Consultative Committee. In particular:

- i. The Commentary to draft Principle 18 was expanded to clarify that it is the VCC itself that is subject of a security right as opposed to the right to VCCs credited to a registry account.
- ii. The Commentary at paragraphs 18.6, 19.1, 20.1, 21.1 and 22.4 was revised in response to the suggestion that these principles be aligned, or their interaction explained. Principle 22(2) is now also presented as an asset-specific rule like Principles 19, 20 and 21.
- iii. Principle 19 and its Commentary have been updated to, among other things, clarify the relationship with the innocent acquirer rule.
- iv. The Commentary to Principle 21 has been revised to explain how the structure of the Principles precludes a direct priority conflict between the methods in Principle 19 (credit to account) and Principle 20 (control agreement).
- v. Principle 22 and its Commentary have been revised to make it clear that Principle 22(2) does not apply where a secured creditor has perfected under Principle 19 by becoming the registered holder of the VCC.

104. Questions for the Working Group:

- *The Working Group is invited to consider the revised Principles and Commentary.*
- *The Working Group is invited to consider whether additions to the Principles or Commentary might usefully address the specific needs of developing countries, including jurisdictions that may lack comprehensive secured transactions frameworks or specialised registries.*
- *The Working Group agreed that Principle 20 should specify that a control agreement must be in written form. The Working Group may wish to consider whether such a requirement should be added to other agreements addressed in these Principles, such as custody agreements and registry account agreements, or whether the Working Group is content that written form is required only for control agreements*

- *The Working Group is invited to consider whether the current formulation of Principle 21 strikes the appropriate balance between the particular considerations applicable to VCCs as articulated in the Commentary and the legitimate interest of States in maintaining coherence with their domestic priority frameworks.*

I. Section VIII: Procedural Law Including Enforcement

105. The language included in draft Principle needs to be developed and discussed by the Working Group. Principle 23(1) specifies that other law applies to procedural matters and Principle 23(2) is intended to flesh out a particular type of remedy that could be triggered at the enforcement stage.

106. Questions for the Working Group:

- *Should the Principles include a provision on procedural law including enforcement?*
- *If it is included, should it be limited to the first paragraph following the approach taken in the case of the DAPL Principles, and then details would be added to the Commentary?*
- *Or should the provision be given a little bit more content, noting that if one was to enforce against a VCC, there needed to be the ability to instruct the registry?*

J. Section IX: Insolvency

107. 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.

108. 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.*
- *The Working Group is encouraged to discuss the implication of insolvency on proprietary rights and security rights if that insolvency results in the revocation of VCCs.*