



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  
Ninth session (remote)  
Zoom, 16 June 2026**

UNIDROIT 2026  
Study LXXXVI – W.G.9 – Doc. 5  
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**SUMMARY REPORT  
OF THE NINTH SESSION**

**(16 June 2026)**

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1. The ninth session of the Working Group on the Legal Nature of Verified Carbon Credits (the 'Working Group') was held online via Zoom on 16 June 2026 from 1:30pm to 4:30pm CEST. The session was attended by individual experts as well as representatives from government agencies, intergovernmental organisations, industry associations, and non-governmental organisations (the list of participants is available in Annexe II).

**Item 1: Opening of the session and welcome**

2. *UNIDROIT Secretary-General, Professor Ignacio Tirado* opened the ninth session of the Working Group and welcomed the online participants. He noted that the Working Group Chair, Professor Hideki Kanda, could not join the meeting but wished the group his best for an enlightened discussion. The Secretary-General would therefore be chairing the session.

3. *The Secretary-General* explained that the present remote session resulted from intersessional work carried out following the eighth session of the Working Group, which had taken place from 15 to 17 April 2026 at UNIDROIT's seat in Rome and online. At its eighth session, the Working Group had reached an agreement in principle on a revised definition of a VCC, in particular as linked to the principles concerning cancellation. However, when implementing that decision, it soon became clear to the Drafting Committee that the proposed agreed position raised significant property law concerns. This gave rise to a series of online meetings and lengthy email exchanges, which resulted in the development of a possible third option for the consideration of the Working Group.

4. A summary of the possible approaches—i.e., (i) the pre-Working Group eight approach; (ii) the revisions discussed during Working Group eight; and (iii) the new proposed 'snapshot approach' developed following Working Group eight—were outlined in document *Study LXXXVI – W.G.9 – Doc. 2*. *The Secretary-General* praised Professor Andrea Tosato as well as Professor Louise Gullifer and other Working Group participants for their tremendous work in producing and providing input in relation to this very clear and helpful document.

5. Additionally, *the Secretary-General* noted that a revised text of the Principles and Commentary following the eighth session of the Working Group had been presented to the UNIDROIT Governing Council at its 107<sup>th</sup> session (27-29 May 2026). The Governing Council agreed to allow the Working Group to carry out additional work on the instrument and then present the document for public consultation. Consistent with the discussion before the UNIDROIT Governing Council, *the Secretary-General* specified that the instrument, as revised following the present session of the Working Group, would then be submitted for public consultation, if the Working Group agreed. He further clarified that the instrument did not need to be finalised in order to be submitted for public consultation. Rather, it had to be complete enough and good enough to be made public, but the purpose of the consultation was precisely to get input on the document. He added that part of the process would involve targeted consultations to ensure that feedback would be sought and obtained from experts in property law and other relevant areas of the law from all representative legal systems.

**Item 2: Adoption of the agenda and organisation of the session**

6. *The Agenda was deemed adopted (Study LXXXVI – W.G.9 – Doc. 1, available in Annexe I).*

**Item 3: Consideration of the iterated draft Principles and Commentary****(a) Proposed 'snapshot approach'**

7. *The Secretary-General* gave the floor to the Drafting Committee to present the proposed 'snapshot approach' to the Working Group.

8. *The Drafting Committee* explained that document *Study LXXXVI – W.G.9 – Doc. 2* attempted to provide the Working Group with an explanation of the trajectory in considerations concerning the definition of a VCC—i.e., where the definition was before Working Group eight, where the definition landed after that session, the problems that arose when the Drafting Committee attempted to implement and embed that new definition in the Principles, and the rationale for a new proposed approach that attempted to functionally reach the same desired commercial outcome while preserving greater integrity from a property law perspective.

9. It was recalled that, at the eighth Working Group session, the view was expressed that it would be extremely problematic from a market perspective if events subsequent to the creation of a VCC would result in the VCC being voided. If this were a possibility, then market confidence would be reduced and financing would be difficult. Key objectives of the Working Group—chiefly to provide a private law framework that allowed for the scaling up of voluntary markets—would consequently be significantly undermined. Therefore, in an effort to bridge and alleviate this concern, the definition of VCC was changed so that, if something occurred that would call into question the mitigation outcome represented by a particular VCC, either because of overissuance or for some other reason, the crediting body (CB) would have a duty to effectively swap in a new mitigation outcome in support of that VCC. This proposed approach, however, created a range of problems from both a property law and a market perspective, since the Drafting Committee was made aware that the notion of a CB being subject to this kind of duty did not reflect current market practice, nor was it deemed palatable to introduce this duty.

10. Therefore, an attempt was made by the Drafting Committee to craft a new definition—described as the 'snapshot approach'—which would arrive at those functional outcomes requested by participants to the Working Group, while at the same time maintaining integrity and compatibility with property law rules.

11. The 'snapshot approach', it was explained, focused on the time of creation. If a VCC satisfied the requirements for creation as provided in the Principles at that particular point in time, then the VCC came into existence. Events that happened after creation—i.e., the issues previously discussed concerning reversals and the consequences of reversal—no longer affected the existence of a VCC from a property law perspective. These were instead matters for the market to address.

12. However, the Principles still needed to address events that happened before creation—i.e., instances where there was never a mitigation outcome for the VCC to represent. The Principles as revised under the 'snapshot approach' thus provided for the revocation of the VCC in two specific instances: (i) deliberate wrongdoing; and (ii) complete nullity. Deliberate wrongdoing referred to the scenario in which a VCC, at the time of creation, was created with a defect, in the sense that the creation was materially affected by deliberate wrongdoing and but-for deliberate wrongdoing the VCC would not have been created. Complete nullity, on the other hand, referred to instances in which the creation requirements were completely missing.

13. It was added that the proprietary analysis remained the same. As before, the Principles provided that a VCC had the characteristics required for something to be the subject of proprietary rights—i.e., it was identifiable, controllable, and rivalrous. What changed was what the VCC represented. The proposed definition provided that a VCC represented the fact that a mitigation outcome was achieved at a particular point in time.

14. *The Secretary-General* opened the floor for discussion on the proposed 'snapshot approach'.

15. *A participant* thanked the Drafting Committee for the very helpful memorandum. Support was expressed for the revised definition. It was, however, noted that the critical issues for discussion arose in relation to the revised Principle 10 and new Principle XX, which addressed the possible ways of dealing with a VCC that was coupled with a mitigation outcome that actually never happened.

16. *The Drafting Committee* shared for the Working Group's consideration the concerns and feedback on the 'snapshot' approach that had been raised by a former member of the Drafting Committee. Firstly, it had been noted that the analogy provided in the commentary 2.12 to various types of patents was problematic because it selectively excluded the example of trademarks, and it was not proposed to invalidate a VCC should it be subsequently demonstrated that it failed to meet its own creation criteria. On this basis, it was observed that the new definition resembled no property that presently existed. Secondly, it had then been observed that the 'snapshot approach' was worse than what had been discussed during Working Group eight because it also severed the link between the VCC and the mitigation outcome, potentially subjecting the Principles to serious criticism.

17. *The Working Group* recognised the validity of the concerns raised. It was observed, however, that the Working Group had considered the integrity of the system and the fact that the VCC maintained, in some way, a link to the state of the environment and therefore could be claimed at the end. The remediation techniques that were used by the market were there to allay that concern, as were the available mechanisms that enabled the market to price VCCs where something had happened and the link to the original outcome was no longer there.

18. It was added that the severing of the continuing connection between the VCC and the mitigation outcome was simply something that the Working Group was asking for, because the logical consequences of maintaining that connection throughout the life of a VCC led to outcomes that Working Group participants deemed economically not acceptable for the scaling up of the market.

19. *Another participant* noted that there was a certain illogical quality to this product, in the sense that, if there was a problem such as a reversal event, that event could be made up for by other mitigation outcomes without any actual substitution taking place. And even though it was possible to mitigate with other mitigation outcomes, the VCC in its registry remained tied to the original mitigation outcome, despite that mitigation outcome no longer existing. It was further observed that this was not a new product, but rather one that had been in existence for about thirty years. And the reason the Working Group existed was because the legal nature of it been the subject of significant uncertainty. It was thus not surprising that there were elements of this product that did not perfectly fit into a traditional property law analysis. Nonetheless, it was noted that the model as embodied in the Principles was by far the best one and was consistent with the expectations of the market, because people thought of a VCC as an asset.

20. *Other participants* agreed. *A participant* recalled that she had been a strong proponent of retaining the link between a VCC and a mitigation outcome. That conceptual link, it was offered, was very important to the credibility of the VCC. Nonetheless, it was observed that there was a distinction between the mitigation outcome, which could not be the subject of proprietary rights, and the verified fact of the achievement of the mitigation outcome, which could instead be reified. It was noted that, even under the 'snapshot approach', the VCC remained tied to the mitigation outcome based on the verified record of achievement—it was that verified record of achievement that was subject to proprietary rights and created the durable link to the mitigation outcome. *Another participant* agreed that there was no complete severing of the mitigation outcome from the VCC under the 'snapshot approach'. The process that the registries went through was described as more analogous to a connection as opposed to a complete unification of the two things.

Conclusions and recommendations

21. *The Working Group agreed to move forward with the 'snapshot approach'.*
22. *It was suggested that any reference to 'project' or 'programme' be broadly referred to as 'mitigation activity'.*

**(b) Principle 10 (Revocation)**

23. The Principles as revised under the 'snapshot approach' no longer needed to address reversal and provided for the revocation of the VCC in two specific instances: (i) deliberate wrongdoing; and (ii) complete nullity.

24. *The Drafting Committee* explained that 'deliberate wrongdoing' was the functional equivalent to fraud—it was a functional way of expressing fraud without tapping into the language specific to any one particular legal tradition. If there was fraud that vitiated the whole creation, the asset could not survive. This, it was explained, was a fundamental principle of property law that was inescapable across legal traditions.

25. 'Complete nullity', on the other hand, referred to instances where certain fundamental elements of existence were missing, regardless of the will, intention or mindset of anyone involved. Again, the result was the same—the asset could not be because the conditions for its existence were not met.

26. If, however, the requirements were present and not vitiated by deliberate wrongdoing at the time of creation and something instead changed at a later date (i.e., a potential reversal event), under the 'snapshot approach' the VCC continued to survive. It was explained that, while the prior approaches entailed a continued link between the VCC and a particular mitigation outcome throughout the life of the VCC, the 'snapshot approach' did away with continued link in order to support the commercial certainty required by market participants.

27. While acknowledging the rationale for the Principle, *participants* raised concerns regarding the vagueness and breadth of the complete nullity construct. In response, *the Drafting Committee* cautioned against moving too far away from the conventional understanding of property law, since the further the Principles moved, the harder it likely would become to obtain buy-in and achieve adoption across jurisdictions.

28. *A participant* queried whether the concerns raised could be addressed by drafting the triggers for nullity as narrowly as possible. It was suggested that Principle 2 could be redrafted to reflect what was being reified, including '*the fact of mitigation is demonstrated to have been falsified or recorded in error*', or some other narrow trigger that applied to the fact of mitigation rather than to the mitigation outcome itself. It was suggested to focus on the facts of mitigation and the scenarios in which those could have been falsified or recorded in honest error. *Another participant* expressed concerns about the assets circulating in secondary markets and then potentially disappearing.

29. *The Drafting Committee* observed that the triggers for deliberate wrongdoing and complete nullity were already quite narrow and additional narrowing could further distance the Principles from traditional property law expectations. It was observed that, if there was no company behind bonds or equities, those bonds or equities would be cancelled.

30. *The Secretary-General* added that the form of the instrument could help. The Principles did not need not define what amounted to a complete nullity for purposes of the instrument—under the current drafting this was left to applicable law—but examples could be included in the commentary to help provide guidance.

31. *Participants* observed that it was very unlikely in practice for there to be a complete nullity without there also being fraud. *The Drafting Committee* noted that this was addressed in the commentary, which indicated that, more often than not, the same facts could satisfy both the grounds of deliberate wrongdoing and complete nullity, and this overlap underscored how narrowly the exceptions had been drawn.

32. A concern was raised as to whether the concept of deliberate wrongdoing could inadvertently open the back door to the issue of illegality. It was suggested that it be clearly explained in the commentary that deliberate wrongdoing referred to fraud, or the kind of wrongdoing that was universal, rather than against a particular statute of a particular State.

33. It was proposed that the shield to such kinds of problems lay not in Principle 10 but rather in private international law (PIL) rules. The Principles would indicate the applicable law and if another jurisdiction said that it was illegal, then it did not have consequences unless the PIL rules pointed to that jurisdiction. *Others* agreed that identifying the law governing this issue was a question of PIL rules. However, it was stressed that it was a complex question with many facets, including questions such as what amounted to illegal conduct, what was an illegal VCC, and what were the effects of illegality.

#### Conclusions and recommendations

34. *The Working Group* agreed to maintain the new drafting of Principle 10 for purposes of consultation, with certain adjustments to the commentary, as indicated below.

35. *It was indicated that, while Principle 10 would not specify what amounted to a complete a nullity, the commentary would provide examples.*

36. *The commentary would also explain the reasons why complete nullity was a very rare instance in practice, including because of the VVBs' verification processes (which included site visits), and which would never result in a positive verification statement if in fact there was no project, absent fraud.*

37. *It was noted that deliberate wrongdoing could potentially open the back door to cancellation because of illegality and it was thus agreed that attention be given to the language in the commentary.*

#### **(c) Principle XX (Overissuance)**

38. *The Drafting Committee* explained that the 'snapshot approach' left one difficult situation to be addressed—the case of innocent overissuance. It was difficult because, in such instances, the mitigation outcome—an essential requirement for the VCC's existence—never happened. It was posited that the Principles needed to address this scenario because otherwise such instances would most likely be treated from a property law perspective as falling under the complete nullity category.

39. *A participant* was of the view that the provisions included in the draft Principle as (2-alt) should not be included. These provisions would allow cancellation or revocation of a VCC in case of either: (i) innocent overissuance for a certain amount of time (the 'time-bar option'); or (ii) so long as the VCC was held by its initial holder, who was in a position to do due diligence (the 'transfer ripening option').

40. With respect to the time-bar option, it was observed that, should this provision be maintained, it would significantly affect the market value for the relevant time period, which was important in terms of getting the financing to the project developers since they were most concerned with the price of the VCC soon after its creation. With respect to the transfer ripening option, it was suggested that it was too easy to get around with a friendly transfer. It was posited that, should

neither option be included, then Principle XX would likely be unnecessary because the commentary to Principle 10 could indicate that the principle was not concerned with innocent overissuance.

41. *The Drafting Committee* explained that, at the moment, Principle XX offered a range of ways of addressing innocent overissuance. The basic, non-alternative version of Principle XX provided essentially a statement of faith, stating that overissuance did not affect the existence of a VCC. The commentary then attempted to explain the reasoning behind that statement, noting that it was an anomaly from a property law perspective that needed to be justified on policy grounds. Such policy grounds included that VCCs represented a market in need of scaling, with VCCs being a peculiar type of asset that presented particular challenges.

42. With respect to the alternatives provided in Principle XX(2-alt), it was explained that these were an attempt to arrive at a point where the Principles departed less from orthodox property law. Thus, under Principle XX(2-alt), the Principles returned to what was expected under traditional property law—i.e., that even the case of innocent overissuance would result in the VCC becoming void because the fundamental requirement for creation was not met. However, the provisions also included certain mitigation mechanisms to allow the VCC to continue existing. The time-bar option was something that existed in certain jurisdictions in relation to other intangibles such as trademarks. The transfer ripening option also existed in several areas of intangible property and market participants were deemed able to draw a line between an arms' length transaction and a non-arms' length transaction.

43. *A participant* expressed full support for what had been crafted from a substantive perspective. While acknowledging that not providing for revocation in cases of overissuance pushed the envelope from a property law perspective, it was posited that this was necessary for the market, particularly because there was significant scientific uncertainty concerning when there was an overissuance, such that it could be subject to reasonable debate.

44. *Another participant* was of the view that Principle XX(2) was reflective of what actually happened in the market. However, having only this provision was difficult. There was a need to be clear about the mechanism, since there were nuances to the original VCC not being cancelled in the case of an innocent overissuance. It was explained that, while there usually would not be a cancellation of the original credit, there would be a cancellation of the replacement credit. There were mechanisms for cancellation and remediation—for making the atmosphere whole—that were prioritised by the registries. It was stressed that this needed to be addressed either in the principle or in the commentary.

45. *Other participants* agreed and suggested that the instrument could acknowledge that conservatism was built into both the methodologies themselves to address potential overissuance, as well as in the registry rules, which included mechanisms to address overissuance.

46. In response, *the Drafting Committee* proposed that a new paragraph 3 could be added to Principle XX expressly stating that, although Principle XX(2) provided that overissuance did not lead to cancellation, this did not prevent or affect in any way arrangements between the CBs, registries, and other market participants on how overissuance could be addressed. The provision would also clarify that there could be regulatory consequences attached to overissuance. In other words, even though Principle XX(2) provided that from a property law perspective nothing happened, this did not mean that other things could not happen on the basis of private agreements between private parties or because of regulation. The proposed provision would thus underscore that Principle XX was just a property rule.

47. *The Drafting Committee* further observed that the instrument as currently drafted did not sufficiently address the fact that it was now in the form of Principles that addressed the property law side of VCCs, but left the rest up to the market, which included the rules of the CB and the registries.

It was suggested that it be stated in the commentary that the market would only work if there were strong rules from market players as well as regulation. It was stressed that once the link between the VCC and the particular mitigation outcome was severed, then it had to be made clear that it was over to the market to maintain its integrity through other means.

48. *A participant* explained that there had been a number of cases of both underissuance and overissuance and the market had acted accordingly. With respect to underissuance, what happened was consistent with the 'snapshot approach', meaning that one was bound by the rules at that point in time. For example, the global warming potential of methane had increased very significantly. So instead of getting 21 CO<sub>2</sub> equivalents for every one molecule of methane, it went up to 25 or 28 in certain instances. And that was as a function of changing scientific knowledge. A project validated and then verified under the original set of rules was bound for the crediting period to that set of rules.

49. With respect to overissuance, it was explained that, in the forestry context, the rules were changed to impose further requirements. In that instance, entities rode out their crediting period, and then others decided to re-up under the new rules. Those that rode out their crediting period under the more generous rules had the value of the resulting credits drop to near nothing. Those that re-upped instead had the associated value associated with it. It was stressed that the concept of scientific improvement was implemented in new methodologies, and would continue to evolve. It was therefore important that the property law construct was able to keep up.

50. *A participant* queried whether a provision which had been included in prior iterations could be included in Principle XX providing that, if the fact that the mitigation outcome never existed resulted from changing scientific methodology, then the revocation would be current and not *ab initio*. In response, it was observed that such a provision would not be needed in Principle XX should the alternatives laid out in paragraph (2-alt) be removed. If paragraph (2-alt) were maintained, the proposed language could be added, but it would result in an even greater property law distortion.

51. Following focused discussion, *participants* agreed to remove paragraph (2-alt) and address the options in the commentary. Among other things, it was noted that the provisions in (2-alt) created too much uncertainty. It was observed that, if the market became aware of a situation in which the mitigation outcome was not achieved, it would respond and the credit would collapse in value. It was further observed that maintaining paragraph (2-alt) would run the risk of creating four separate units: a straight VCC with no conditions, a VCC that was time-barred, a VCC that was transfer-limited or transfer-affected, and a VCC that was both time- and transfer-limited. That was not a desired outcome. Rather, a most valuable output of the Working Group was to reach a common definition of a VCC.

52. It was also recalled that the removal of paragraph (2-alt) did not mean that there were no overissuance processes available to remedy an overissuance error. It just meant that the Principles did not address those processes. It was agreed that the commentary and the Introduction would address the relevant processes in place and enacted by the VVBs, CBs, and registries to prevent and remediate overissuance.

#### Conclusions and recommendations

53. *The Working Group agreed to maintain Principle XX but remove (2-alt) and address the proposed options in the commentary.*

54. *The Working Group agreed to the proposed addition of a Principle XX(3) to clarify that, although Principle XX(2) provided that overissuance did not lead to cancellation, this did not prevent or affect in any way arrangements between the CBs, registries and other market participants on how overissuance may be addressed. The provision could also clarify that there may be regulatory consequences attached to overissuance.*

55. *It was suggested that the commentary to Principle XX address some of the overissuance processes in place and enacted by the CBs and registries to underscore that, even if overissuance was not addressed by the Principles, it did not mean that it was not addressed by the market.*

56. *It was agreed that market-related points, including additional detail on remediation in the case of overissuance and the VVB's verification processes, be added to the Introduction.*

**Item 4: Organisation of future work**

57. *The Secretary-General asked Working Group participants to share with the Secretariat any proposals as to who should be specifically targeted for consultation, including institutions, associations, and individuals whose input would be particularly valuable.*

**Item 5: Closing of the session**

58. *The Secretary-General thanked the Working Group participants for an excellent discussion and thanked the Drafting Committee for the extraordinary job with the iteration of the Principles. He closed the session inviting participants to continue sharing any comments or ideas.*

**ANNEXE I****AGENDA**

1. Opening of the session and welcome
2. Adoption of the agenda and organisation of the session
3. Consideration of the iterated draft Principles and Commentary
4. Organisation of future work
5. Closing of the session



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