

United Nations Convention on the Assignment of Receivables in International Trade, 2001

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1 **United Nations Convention on the Assignment of**
2 **Receivables in International Trade, 2001**

3 **PREAMBLE**

4 The Contracting States,

5 Reaffirming their conviction that international trade on the basis
6 of equality and mutual benefit is an important element in the pro-
7 motion of friendly relations among States,

8 Considering that problems created by uncertainties as to the con-
9 tent and the choice of legal regime applicable to the assignment of
10 receivables constitute an obstacle to international trade,

11 Desiring to establish principles and to adopt rules relating to the
12 assignment of receivables that would create certainty and trans-
13 parency and promote the modernization of the law relating to as-
14 signments of receivables, while protecting existing assignment prac-
15 tices and facilitating the development of new practices,

16 Desiring also to ensure adequate protection of the interests of
17 debtors in assignments of receivables,

18 Being of the opinion that the adoption of uniform rules govern-
19 ing the assignment of receivables would promote the availability of
20 capital and credit at more affordable rates and thus facilitate the
21 development of international trade,

22 Have agreed as follows:

23 **CHAPTER I - SCOPE OF APPLICATION**

Article 1 - Scope of application

1. This Convention applies to:

(a) Assignments of international receivables and to international
assignments of receivables as defined in this chapter, if, at the time

of conclusion of the contract of assignment, the assignor is located
in a Contracting State; and

(b) Subsequent assignments, provided that any prior assignment is
governed by this Convention.

2. This Convention applies to subsequent assignments that satisfy
the criteria set forth in paragraph 1 (a) of this article, even if it did
not apply to any prior assignment of the same receivable.

3. This Convention does not affect the rights and obligations of the
debtor unless, at the time of conclusion of the original contract, the
debtor is located in a Contracting State or the law governing the
original contract is the law of a Contracting State.

4. The provisions of chapter V apply to assignments of interna-
tional receivables and to international assignments of receivables as
defined in this chapter independently of paragraphs 1 to 3 of this
article. However, those provisions do not apply if a State makes a
declaration under article 39.

5. The provisions of the annex to this Convention apply as provided
in article 42.

Article 2 - Assignment of receivables

For the purposes of this Convention:

(a) "Assignment" means the transfer by agreement from one person
("assignor") to another person ("assignee") of all or part of or an
undivided interest in the assignor's contractual right to payment of
a monetary sum ("receivable") from a third person ("the debtor").
The creation of rights in receivables as security for indebtedness or
other obligation is deemed to be a transfer;

(b) In the case of an assignment by the initial or any other assignee
("subsequent assignment"), the person who makes that assignment

is the assignor and the person to whom that assignment is made is the assignee.

Article 3 - Internationality

A receivable is international if, at the time of conclusion of the original contract, the assignor and the debtor are located in different States. An assignment is international if, at the time of conclusion of the contract of assignment, the assignor and the assignee are located in different States.

Article 4 - Exclusions and other limitations

1. This Convention does not apply to assignments made:

- (a) To an individual for his or her personal, family or household purposes;
- (b) As part of the sale or change in the ownership or legal status of the business out of which the assigned receivables arose.

2. This Convention does not apply to assignments of receivables arising under or from:

- (a) Transactions on a regulated exchange;
- (b) Financial contracts governed by netting agreements, except a receivable owed on the termination of all outstanding transactions;
- (c) Foreign exchange transactions;
- (d) Inter-bank payment systems, inter-bank payment agreements or clearance and settlement systems relating to securities or other financial assets or instruments;
- (e) The transfer of security rights in, sale, loan or holding of or agreement to repurchase securities or other financial assets or instruments held with an intermediary;

(f) Bank deposits; 35

(g) A letter of credit or independent guarantee. 36

3. Nothing in this Convention affects the rights and obligations of any person under the law governing negotiable instruments. 37

4. Nothing in this Convention affects the rights and obligations of the assignor and the debtor under special laws governing the protection of parties to transactions made for personal, family or household purposes. 38

5. Nothing in this Convention: 39

(a) Affects the application of the law of a State in which real property is situated to either: 40

(i) An interest in that real property to the extent that under that law the assignment of a receivable confers such an interest; or 41

(ii) The priority of a right in a receivable to the extent that under that law an interest in the real property confers such a right; or 42

(b) Makes lawful the acquisition of an interest in real property not permitted under the law of the State in which the real property is situated. 43

CHAPTER II - GENERAL PROVISIONS 44

Article 5 - Definitions and rules of interpretation 45

For the purposes of this Convention: 46

(a) “Original contract” means the contract between the assignor and the debtor from which the assigned receivable arises; 47

(b) “Existing receivable” means a receivable that arises upon or before conclusion of the contract of assignment and “future receivable” means a receivable that arises after conclusion of the contract of assignment; 48

49 (c) “Writing” means any form of information that is accessible so
as to be usable for subsequent reference. Where this Convention
requires a writing to be signed, that requirement is met if, by gener-
ally accepted means or a procedure agreed to by the person whose
signature is required, the writing identifies that person and indi-
cates that person’s approval of the information contained in the
writing;

50 (d) “Notification of the assignment” means a communication in
writing that reasonably identifies the assigned receivables and the
assignee;

51 (e) “Insolvency administrator” means a person or body, includ-
ing one appointed on an interim basis, authorized in an insolvency
proceeding to administer the reorganization or liquidation of the
assignor’s assets or affairs;

52 (f) “Insolvency proceeding” means a collective judicial or adminis-
trative proceeding, including an interim proceeding, in which the
assets and affairs of the assignor are subject to control or super-
vision by a court or other competent authority for the purpose of
reorganization or liquidation;

53 (g) “Priority” means the right of a person in preference to the right
of another person and, to the extent relevant for such purpose,
includes the determination whether the right is a personal or a
property right, whether or not it is a security right for indebted-
ness or other obligation and whether any requirements necessary to
render the right effective against a competing claimant have been
satisfied;

54 (h) A person is located in the State in which it has its place of
business. If the assignor or the assignee has a place of business in
more than one State, the place of business is that place where the
central administration of the assignor or the assignee is exercised. If
the debtor has a place of business in more than one State, the place
of business is that which has the closest relationship to the original

contract. If a person does not have a place of business, reference is
to be made to the habitual residence of that person;

(i) “Law” means the law in force in a State other than its rules of 55
private international law;

(j) “Proceeds” means whatever is received in respect of an assigned 56
receivable, whether in total or partial payment or other satisfaction
of the receivable. The term includes whatever is received in respect
of proceeds. The term does not include returned goods;

(k) “Financial contract” means any spot, forward, future, option 57
or swap transaction involving interest rates, commodities, curren-
cies, equities, bonds, indices or any other financial instrument, any
repurchase or securities lending transaction, and any other trans-
action similar to any transaction referred to above entered into in
financial markets and any combination of the transactions men-
tioned above;

(l) “Netting agreement” means an agreement between two or more 58
parties that provides for one or more of the following:

(i) The net settlement of payments due in the same currency on the 59
same date whether by novation or otherwise;

(ii) Upon the insolvency or other default by a party, the termination 60
of all outstanding transactions at their replacement or fair market
values, conversion of such sums into a single currency and netting
into a single payment by one party to the other; or

(iii) The set-off of amounts calculated as set forth in subparagraph 61
(l) (ii) of this article under two or more netting agreements;

(m) “Competing claimant” means: 62

(i) Another assignee of the same receivable from the same assign- 63
nor, including a person who, by operation of law, claims a right in
the assigned receivable as a result of its right in other property of

the assignor, even if that receivable is not an international receivable and the assignment to that assignee is not an international assignment;

- (ii) A creditor of the assignor; or
- (iii) The insolvency administrator.

Article 6 - Party autonomy

Subject to article 19, the assignor, the assignee and the debtor may derogate from or vary by agreement provisions of this Convention relating to their respective rights and obligations. Such an agreement does not affect the rights of any person who is not a party to the agreement.

Article 7 - Principles of interpretation

1. In the interpretation of this Convention, regard is to be had to its object and purpose as set forth in the preamble, to its international character and to the need to promote uniformity in its application and the observance of good faith in international trade.
2. Questions concerning matters governed by this Convention that are not expressly settled in it are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the law applicable by virtue of the rules of private international law.

CHAPTER III - EFFECTS OF ASSIGNMENT

Article 8 - Effectiveness of assignments

1. An assignment is not ineffective as between the assignor and the assignee or as against the debtor or as against a competing

claimant, and the right of an assignee may not be denied priority, on the ground that it is an assignment of more than one receivable, future receivables or parts of or undivided interests in receivables, provided that the receivables are described:

(a) Individually as receivables to which the assignment relates; or

(b) In any other manner, provided that they can, at the time of the assignment or, in the case of future receivables, at the time of conclusion of the original contract, be identified as receivables to which the assignment relates.

2. Unless otherwise agreed, an assignment of one or more future receivables is effective without a new act of transfer being required to assign each receivable.

3. Except as provided in paragraph 1 of this article, article 9 and article 10, paragraphs 2 and 3, this Convention does not affect any limitations on assignments arising from law.

Article 9 - Contractual limitations on assignments

1. An assignment of a receivable is effective notwithstanding any agreement between the initial or any subsequent assignor and the debtor or any subsequent assignee limiting in any way the assignor's right to assign its receivables.

2. Nothing in this article affects any obligation or liability of the assignor for breach of such an agreement, but the other party to such agreement may not avoid the original contract or the assignment contract on the sole ground of that breach. A person who is not party to such an agreement is not liable on the sole ground that it had knowledge of the agreement.

3. This article applies only to assignments of receivables:

(a) Arising from an original contract that is a contract for the

supply or lease of goods or services other than financial services, a construction contract or a contract for the sale or lease of real property;

83 (b) Arising from an original contract for the sale, lease or licence of industrial or other intellectual property or of proprietary information;

84 (c) Representing the payment obligation for a credit card transaction; or

85 (d) Owed to the assignor upon net settlement of payments due pursuant to a netting agreement involving more than two parties.

86 **Article 10 - Transfer of security rights**

87 1. A personal or property right securing payment of the assigned receivable is transferred to the assignee without a new act of transfer. If such a right, under the law governing it, is transferable only with a new act of transfer, the assignor is obliged to transfer such right and any proceeds to the assignee.

88 2. A right securing payment of the assigned receivable is transferred under paragraph 1 of this article notwithstanding any agreement between the assignor and the debtor or other person granting that right, limiting in any way the assignor's right to assign the receivable or the right securing payment of the assigned receivable.

89 3. Nothing in this article affects any obligation or liability of the assignor for breach of any agreement under paragraph 2 of this article, but the other party to that agreement may not avoid the original contract or the assignment contract on the sole ground of that breach. A person who is not a party to such an agreement is not liable on the sole ground that it had knowledge of the agreement.

90 4. Paragraphs 2 and 3 of this article apply only to assignments of

receivables:

(a) Arising from an original contract that is a contract for the supply or lease of goods or services other than financial services, a construction contract or a contract for the sale or lease of real property; 91

(b) Arising from an original contract for the sale, lease or licence of industrial or other intellectual property or of proprietary information; 92

(c) Representing the payment obligation for a credit card transaction; or 93

(d) Owed to the assignor upon net settlement of payments due pursuant to a netting agreement involving more than two parties. 94

5. The transfer of a possessory property right under paragraph 1 of this article does not affect any obligations of the assignor to the debtor or the person granting the property right with respect to the property transferred existing under the law governing that property right. 95

6. Paragraph 1 of this article does not affect any requirement under rules of law other than this Convention relating to the form or registration of the transfer of any rights securing payment of the assigned receivable. 96

CHAPTER IV - RIGHTS, OBLIGATIONS AND DEFENCES 97

SECTION I - ASSIGNOR AND ASSIGNEE 98

Article 11 - Rights and obligations of the assignor and the assignee 99

1. The mutual rights and obligations of the assignor and the assignee arising from their agreement are determined by the terms 100

and conditions set forth in that agreement, including any rules or general conditions referred to therein.

101 2. The assignor and the assignee are bound by any usage to which they have agreed and, unless otherwise agreed, by any practices they have established between themselves.

102 3. In an international assignment, the assignor and the assignee are considered, unless otherwise agreed, implicitly to have made applicable to the assignment a usage that in international trade is widely known to, and regularly observed by, parties to the particular type of assignment or to the assignment of the particular category of receivables.

103 **Article 12 - Representations of the assignor**

104 1. Unless otherwise agreed between the assignor and the assignee, the assignor represents at the time of conclusion of the contract of assignment that:

105 (a) The assignor has the right to assign the receivable;

106 (b) The assignor has not previously assigned the receivable to another assignee; and

107 (c) The debtor does not and will not have any defences or rights of set-off.

108 2. Unless otherwise agreed between the assignor and the assignee, the assignor does not represent that the debtor has, or will have, the ability to pay.

109 **Article 13 - Right to notify the debtor**

110 1. Unless otherwise agreed between the assignor and the assignee, the assignor or the assignee or both may send the debtor notification

of the assignment and a payment instruction, but after notification has been sent only the assignee may send such an instruction.

2. Notification of the assignment or a payment instruction sent in breach of any agreement referred to in paragraph 1 of this article is not ineffective for the purposes of article 17 by reason of such breach. However, nothing in this article affects any obligation or liability of the party in breach of such an agreement for any damages arising as a result of the breach. 111

Article 14 - Right to payment 112

1. As between the assignor and the assignee, unless otherwise agreed and whether or not notification of the assignment has been sent: 113

(a) If payment in respect of the assigned receivable is made to the assignee, the assignee is entitled to retain the proceeds and goods returned in respect of the assigned receivable; 114

(b) If payment in respect of the assigned receivable is made to the assignor, the assignee is entitled to payment of the proceeds and also to goods returned to the assignor in respect of the assigned receivable; and 115

(c) If payment in respect of the assigned receivable is made to another person over whom the assignee has priority, the assignee is entitled to payment of the proceeds and also to goods returned to such person in respect of the assigned receivable. 116

2. The assignee may not retain more than the value of its right in the receivable. 117

SECTION II - DEBTOR 118

Article 15 - Principle of debtor protection

- 120 1. Except as otherwise provided in this Convention, an assignment
does not, without the consent of the debtor, affect the rights and
obligations of the debtor, including the payment terms contained
in the original contract.
- 121 2. A payment instruction may change the person, address or ac-
count to which the debtor is required to make payment, but may
not change:
- 122 (a) The currency of payment specified in the original contract;
or
- 123 (b) The State specified in the original contract in which payment
is to be made to a State other than that in which the debtor is
located.

Article 16 - Notification of the debtor

- 125 1. Notification of the assignment or a payment instruction is ef-
fective when received by the debtor if it is in a language that is
reasonably expected to inform the debtor about its contents. It is
sufficient if notification of the assignment or a payment instruction
is in the language of the original contract.
- 126 2. Notification of the assignment or a payment instruction may
relate to receivables arising after notification.
- 127 3. Notification of a subsequent assignment constitutes notification
of all prior assignments.

Article 17 - Debtor's discharge by payment

- 129 1. Until the debtor receives notification of the assignment, the
debtor is entitled to be discharged by paying in accordance with
the original contract.

- 119 2. After the debtor receives notification of the assignment, subject 130
to paragraphs 3 to 8 of this article, the debtor is discharged only by
paying the assignee or, if otherwise instructed in the notification of
the assignment or subsequently by the assignee in a writing received
by the debtor, in accordance with such payment instruction.
3. If the debtor receives more than one payment instruction relating 131
to a single assignment of the same receivable by the same assignor,
the debtor is discharged by paying in accordance with the last pay-
ment instruction received from the assignee before payment.
4. If the debtor receives notification of more than one assignment 132
of the same receivable made by the same assignor, the debtor is
discharged by paying in accordance with the first notification re-
ceived.
5. If the debtor receives notification of one or more subsequent 133
assignments, the debtor is discharged by paying in accordance with
the notification of the last of such subsequent assignments.
6. If the debtor receives notification of the assignment of a part 134
of or an undivided interest in one or more receivables, the debtor
is discharged by paying in accordance with the notification or in
accordance with this article as if the debtor had not received the
notification. If the debtor pays in accordance with the notification,
the debtor is discharged only to the extent of the part or undivided
interest paid.
7. If the debtor receives notification of the assignment from the 135
assignee, the debtor is entitled to request the assignee to provide
within a reasonable period of time adequate proof that the assign-
ment from the initial assignor to the initial assignee and any inter-
mediate assignment have been made and, unless the assignee does
so, the debtor is discharged by paying in accordance with this ar-
ticle as if the notification from the assignee had not been received.
Adequate proof of an assignment includes but is not limited to any

writing emanating from the assignor and indicating that the assignment has taken place.

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

137 **Article 18 - Defences and rights of set-off of the debtor**

138 1. In a claim by the assignee against the debtor for payment of the assigned receivable, the debtor may raise against the assignee all defences and rights of set-off arising from the original contract, or any other contract that was part of the same transaction, of which the debtor could avail itself as if the assignment had not been made and such claim were made by the assignor.

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

140 3. Notwithstanding paragraphs 1 and 2 of this article, defences and rights of set-off that the debtor may raise pursuant to article 9 or 10 against the assignor for breach of an agreement limiting in any way the assignor's right to make the assignment are not available to the debtor against the assignee.

141 **Article 19 - Agreement not to raise defences or rights of set-off**

142 1. The debtor may agree with the assignor in a writing signed by the debtor not to raise against the assignee the defences and rights of set-off that it could raise pursuant to article 18. Such an

agreement precludes the debtor from raising against the assignee those defences and rights of set-off.

2. The debtor may not waive defences: 143

(a) Arising from fraudulent acts on the part of the assignee; or 144

(b) Based on the debtor's incapacity. 145

3. Such an agreement may be modified only by an agreement in a writing signed by the debtor. The effect of such a modification as against the assignee is determined by article 20, paragraph 2. 146

Article 20 - Modification of the original contract 147

1. An agreement concluded before notification of the assignment between the assignor and the debtor that affects the assignee's rights is effective as against the assignee, and the assignee acquires corresponding rights. 148

2. An agreement concluded after notification of the assignment between the assignor and the debtor that affects the assignee's rights is ineffective as against the assignee unless: 149

(a) The assignee consents to it; or 150

(b) The receivable is not fully earned by performance and either the modification is provided for in the original contract or, in the context of the original contract, a reasonable assignee would consent to the modification. 151

3. Paragraphs 1 and 2 of this article do not affect any right of the assignor or the assignee arising from breach of an agreement between them. 152

Article 21 - Recovery of payments 153

Failure of the assignor to perform the original contract does not 154

entitle the debtor to recover from the assignee a sum paid by the 162
debtor to the assignor or the assignee.

155 SECTION III - THIRD PARTIES

156 **Article 22 - Law applicable to competing rights**

157 With the exception of matters that are settled elsewhere in this
Convention and subject to articles 23 and 24, the law of the State
in which the assignor is located governs the priority of the right of
an assignee in the assigned receivable over the right of a competing
claimant.

158 **Article 23 - Public policy and mandatory rules**

159 1. The application of a provision of the law of the State in which
the assignor is located may be refused only if the application of that
provision is manifestly contrary to the public policy of the forum
State.

160 2. The rules of the law of either the forum State or any other State
that are mandatory irrespective of the law otherwise applicable may
not prevent the application of a provision of the law of the State in
which the assignor is located.

161 3. Notwithstanding paragraph 2 of this article, in an insolvency
proceeding commenced in a State other than the State in which the
assignor is located, any preferential right that arises, by operation
of law, under the law of the forum State and is given priority over
the rights of an assignee in insolvency proceedings under the law
of that State may be given priority notwithstanding article 22. A
State may deposit at any time a declaration identifying any such
preferential right.

Article 24 - Special rules on proceeds

1. If proceeds are received by the assignee, the assignee is entitled 163
to retain those proceeds to the extent that the assignee's right in
the assigned receivable had priority over the right of a competing
claimant in the assigned receivable.

2. If proceeds are received by the assignor, the right of the assignee 164
in those proceeds has priority over the right of a competing claimant
in those proceeds to the same extent as the assignee's right had
priority over the right in the assigned receivable of that claimant
if:

(a) The assignor has received the proceeds under instructions from 165
the assignee to hold the proceeds for the benefit of the assignee;
and

(b) The proceeds are held by the assignor for the benefit of the 166
assignee separately and are reasonably identifiable from the assets
of the assignor, such as in the case of a separate deposit or securi-
ties account containing only proceeds consisting of cash or securi-
ties.

3. Nothing in paragraph 2 of this article affects the priority of a per- 167
son having against the proceeds a right of set-off or a right created
by agreement and not derived from a right in the receivable.

Article 25 - Subordination 168

An assignee entitled to priority may at any time subordinate its 169
priority unilaterally or by agreement in favour of any existing or
future assignees.

CHAPTER V - AUTONOMOUS CONFLICT-OF-LAWS 170
RULES

Article 26 - Application of chapter V

- 172 The provisions of this chapter apply to matters that are:
- 173 (a) Within the scope of this Convention as provided in article 1,
paragraph 4; and
- 174 (b) Otherwise within the scope of this Convention but not settled
elsewhere in it.

Article 27 - Form of a contract of assignment

- 176 1. A contract of assignment concluded between persons who are
located in the same State is formally valid as between them if it
satisfies the requirements of either the law which governs it or the
law of the State in which it is concluded.
- 177 2. A contract of assignment concluded between persons who are
located in different States is formally valid as between them if it
satisfies the requirements of either the law which governs it or the
law of one of those States.

**Article 28 - Law applicable to the mutual rights and
obligations of the assignor and the assignee**

- 179 1. The mutual rights and obligations of the assignor and the as-
signee arising from their agreement are governed by the law chosen
by them.
- 180 2. In the absence of a choice of law by the assignor and the assignee,
their mutual rights and obligations arising from their agreement
are governed by the law of the State with which the contract of
assignment is most closely connected.

18071

**Article 29 - Law applicable to the rights and obligations of
the assignee and the debtor**

The law governing the original contract determines the effective-
ness of contractual limitations on assignment as between the as-
signee and the debtor, the relationship between the assignee and
the debtor, the conditions under which the assignment can be in-
voked against the debtor and whether the debtor's obligations have
been discharged.

182

Article 30 - Law applicable to priority

1. The law of the State in which the assignor is located governs the
priority of the right of an assignee in the assigned receivable over
the right of a competing claimant.
2. The rules of the law of either the forum State or any other State
that are mandatory irrespective of the law otherwise applicable may
not prevent the application of a provision of the law of the State in
which the assignor is located.
3. Notwithstanding paragraph 2 of this article, in an insolvency
proceeding commenced in a State other than the State in which the
assignor is located, any preferential right that arises, by operation
of law, under the law of the forum State and is given priority over
the rights of an assignee in insolvency proceedings under the law of
that State may be given priority notwithstanding paragraph 1 of
this article.

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Article 31 - Mandatory rules

1. Nothing in articles 27 to 29 restricts the application of the rules of
the law of the forum State in a situation where they are mandatory
irrespective of the law otherwise applicable.

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188

189 2. Nothing in articles 27 to 29 restricts the application of the
 mandatory rules of the law of another State with which the mat-
 ters settled in those articles have a close connection if and insofar
 as, under the law of that other State, those rules must be applied
 irrespective of the law otherwise applicable.

190 **Article 32 - Public policy**

191 With regard to matters settled in this chapter, the application of a
 provision of the law specified in this chapter may be refused only
 if the application of that provision is manifestly contrary to the
 public policy of the forum State.

192 **CHAPTER VI - FINAL PROVISIONS**

193 **Article 33 - Depositary**

194 The Secretary-General of the United Nations is the depositary of
 this Convention.

195 **Article 34 - Signature, ratification, acceptance, approval,
 accession**

196 1. This Convention is open for signature by all States at the Head-
 quarters of the United Nations in New York until 31 December
 2003.

197 2. This Convention is subject to ratification, acceptance or approval
 by the signatory States.

198 3. This Convention is open to accession by all States that are not
 signatory States as from the date it is open for signature.

199 4. Instruments of ratification, acceptance, approval and accession
 are to be deposited with the Secretary-General of the United Na-
 tions.

Article 35 - Application to territorial units

200

1. If a State has two or more territorial units in which different
 systems of law are applicable in relation to the matters dealt with
 in this Convention, it may at any time declare that this Convention
 is to extend to all its territorial units or only one or more of them,
 and may at any time substitute another declaration for its earlier
 declaration.

201

2. Such declarations are to state expressly the territorial units to
 which this Convention extends.

202

3. If, by virtue of a declaration under this article, this Convention
 does not extend to all territorial units of a State and the assignor
 or the debtor is located in a territorial unit to which this Con-
 vention does not extend, this location is considered not to be in a
 Contracting State.

203

4. If, by virtue of a declaration under this article, this Convention
 does not extend to all territorial units of a State and the law gov-
 erning the original contract is the law in force in a territorial unit
 to which this Convention does not extend, the law governing the
 original contract is considered not to be the law of a Contracting
 State.

204

5. If a State makes no declaration under paragraph 1 of this ar-
 ticle, the Convention is to extend to all territorial units of that
 State.

205

Article 36 - Location in a territorial unit

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If a person is located in a State which has two or more territorial
 units, that person is located in the territorial unit in which it has
 its place of business. If the assignor or the assignee has a place of
 business in more than one territorial unit, the place of business is
 that place where the central administration of the assignor or the

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assignee is exercised. If the debtor has a place of business in more than one territorial unit, the place of business is that which has the closest relationship to the original contract. If a person does not have a place of business, reference is to be made to the habitual residence of that person. A State with two or more territorial units may specify by declaration at any time other rules for determining the location of a person within that State.

208 **Article 37 - Applicable law in territorial units**

209 Any reference in this Convention to the law of a State means, in the case of a State which has two or more territorial units, the law in force in the territorial unit. Such a State may specify by declaration at any time other rules for determining the applicable law, including rules that render applicable the law of another territorial unit of that State.

210 **Article 38 - Conflicts with other international agreements**

211 1. This Convention does not prevail over any international agreement that has already been or may be entered into and that specifically governs a transaction otherwise governed by this Convention.

212 2. Notwithstanding paragraph 1 of this article, this Convention prevails over the Unidroit Convention on International Factoring (“the Ottawa Convention”). To the extent that this Convention does not apply to the rights and obligations of a debtor, it does not preclude the application of the Ottawa Convention with respect to the rights and obligations of that debtor.

Article 39 - Declaration on application of chapter V

A State may declare at any time that it will not be bound by chapter V. 214

Article 40 - Limitations relating to Governments and other public entities 215

A State may declare at any time that it will not be bound or the extent to which it will not be bound by articles 9 and 10 if the debtor or any person granting a personal or property right securing payment of the assigned receivable is located in that State at the time of conclusion of the original contract and is a Government, central or local, any subdivision thereof, or an entity constituted for a public purpose. If a State has made such a declaration, articles 9 and 10 do not affect the rights and obligations of that debtor or person. A State may list in a declaration the types of entity that are the subject of a declaration. 216

Article 41 - Other exclusions 217

1. A State may declare at any time that it will not apply this Convention to specific types of assignment or to the assignment of specific categories of receivables clearly described in a declaration. 218

2. After a declaration under paragraph 1 of this article takes effect: 219

(a) This Convention does not apply to such types of assignment or to the assignment of such categories of receivables if the assignor is located at the time of conclusion of the contract of assignment in such a State; and 220

(b) The provisions of this Convention that affect the rights and 221

obligations of the debtor do not apply if, at the time of conclusion of the original contract, the debtor is located in such a State or the law governing the original contract is the law of such a State.

222 3. This article does not apply to assignments of receivables listed
in article 9, paragraph 3.

223 **Article 42 - Application of the annex**

224 1. A State may at any time declare that it will be bound by:

225 (a) The priority rules set forth in section I of the annex and will
participate in the international registration system established pur-
suant to section II of the annex;

226 (b) The priority rules set forth in section I of the annex and will
effectuate such rules by use of a registration system that fulfils the
purposes of such rules, in which case, for the purposes of section I
of the annex, registration pursuant to such a system has the same
effect as registration pursuant to section II of the annex;

227 (c) The priority rules set forth in section III of the annex;

228 (d) The priority rules set forth in section IV of the annex; or

229 (e) The priority rules set forth in articles 7 and 9 of the annex.

230 2. For the purposes of article 22:

231 (a) The law of a State that has made a declaration pursuant to
paragraph 1 (a) or (b) of this article is the set of rules set forth in
section I of the annex, as affected by any declaration made pursuant
to paragraph 5 of this article;

232 (b) The law of a State that has made a declaration pursuant to
paragraph 1 (c) of this article is the set of rules set forth in section
III of the annex, as affected by any declaration made pursuant to
paragraph 5 of this article;

233 (c) The law of a State that has made a declaration pursuant to

paragraph 1 (d) of this article is the set of rules set forth in section
IV of the annex, as affected by any declaration made pursuant to
paragraph 5 of this article; and

(d) The law of a State that has made a declaration pursuant to 234
paragraph 1 (e) of this article is the set of rules set forth in articles
7 and 9 of the annex, as affected by any declaration made pursuant
to paragraph 5 of this article.

3. A State that has made a declaration pursuant to paragraph 1 235
of this article may establish rules pursuant to which contracts of
assignment concluded before the declaration takes effect become
subject to those rules within a reasonable time.

4. A State that has not made a declaration pursuant to paragraph 236
1 of this article may, in accordance with priority rules in force in
that State, utilize the registration system established pursuant to
section II of the annex.

5. At the time a State makes a declaration pursuant to paragraph 237
1 of this article or thereafter, it may declare that:

(a) It will not apply the priority rules chosen under paragraph 1 of 238
this article to certain types of assignment or to the assignment of
certain categories of receivables; or

(b) It will apply those priority rules with modifications specified in 239
that declaration.

6. At the request of Contracting or Signatory States to this Con- 240
vention comprising not less than one third of the Contracting and
Signatory States, the depositary shall convene a conference of the
Contracting and Signatory States to designate the supervising au-
thority and the first registrar and to prepare or revise the regula-
tions referred to in section II of the annex.

Article 43 - Effect of declaration

- 242 1. Declarations made under articles 35, paragraph 1, 36, 37 or 39
to 42 at the time of signature are subject to confirmation upon
ratification, acceptance or approval.
- 243 2. Declarations and confirmations of declarations are to be in writ-
ing and to be formally notified to the depositary.
- 244 3. A declaration takes effect simultaneously with the entry into
force of this Convention in respect of the State concerned. However,
a declaration of which the depositary receives formal notification
after such entry into force takes effect on the first day of the month
following the expiration of six months after the date of its receipt
by the depositary.
- 245 4. A State that makes a declaration under articles 35, paragraph
1, 36, 37 or 39 to 42 may withdraw it at any time by a formal
notification in writing addressed to the depositary. Such withdrawal
takes effect on the first day of the month following the expiration
of six months after the date of the receipt of the notification by the
depositary.
- 246 5. In the case of a declaration under articles 35, paragraph 1, 36,
37 or 39 to 42 that takes effect after the entry into force of this
Convention in respect of the State concerned or in the case of a
withdrawal of any such declaration, the effect of which in either
case is to cause a rule in this Convention, including any annex, to
become applicable:
- 247 (a) Except as provided in paragraph 5 (b) of this article, that rule is
applicable only to assignments for which the contract of assignment
is concluded on or after the date when the declaration or withdrawal
takes effect in respect of the Contracting State referred to in article
1, paragraph 1 (a);
- 248 (b) A rule that deals with the rights and obligations of the debtor
applies only in respect of original contracts concluded on or after

241 the date when the declaration or withdrawal takes effect in respect
of the Contracting State referred to in article 1, paragraph 3.

6. In the case of a declaration under articles 35, paragraph 1, 36, 249
37 or 39 to 42 that takes effect after the entry into force of this
Convention in respect of the State concerned or in the case of a
withdrawal of any such declaration, the effect of which in either
case is to cause a rule in this Convention, including any annex, to
become inapplicable:

(a) Except as provided in paragraph 6 (b) of this article, that rule is 250
inapplicable to assignments for which the contract of assignment is
concluded on or after the date when the declaration or withdrawal
takes effect in respect of the Contracting State referred to in article
1, paragraph 1 (a);

(b) A rule that deals with the rights and obligations of the debtor 251
is inapplicable in respect of original contracts concluded on or after
the date when the declaration or withdrawal takes effect in respect
of the Contracting State referred to in article 1, paragraph 3.

7. If a rule rendered applicable or inapplicable as a result of a 252
declaration or withdrawal referred to in paragraph 5 or 6 of this
article is relevant to the determination of priority with respect to a
receivable for which the contract of assignment is concluded before
such declaration or withdrawal takes effect or with respect to its
proceeds, the right of the assignee has priority over the right of a
competing claimant to the extent that, under the law that would
determine priority before such declaration or withdrawal takes ef-
fect, the right of the assignee would have priority.

Article 44 - Reservations

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254 No reservations are permitted except those expressly authorized in
this Convention.

Article 45 - Entry into force

1. This Convention enters into force on the first day of the month following the expiration of six months from the date of deposit of the fifth instrument of ratification, acceptance, approval or accession with the depositary.

2. For each State that becomes a Contracting State to this Convention after the date of deposit of the fifth instrument of ratification, acceptance, approval or accession, this Convention enters into force on the first day of the month following the expiration of six months after the date of deposit of the appropriate instrument on behalf of that State.

3. This Convention applies only to assignments if the contract of assignment is concluded on or after the date when this Convention enters into force in respect of the Contracting State referred to in article 1, paragraph 1

(a), provided that the provisions of this Convention that deal with the rights and obligations of the debtor apply only to assignments of receivables arising from original contracts concluded on or after the date when this Convention enters into force in respect of the Contracting State referred to in article 1, paragraph 3.

4. If a receivable is assigned pursuant to a contract of assignment concluded before the date when this Convention enters into force in respect of the Contracting State referred to in article 1, paragraph 1 (a), the right of the assignee has priority over the right of a competing claimant with respect to the receivable to the extent that, under the law that would determine priority in the absence of this Convention, the right of the assignee would have priority.

Article 46 - Denunciation

1. A Contracting State may denounce this Convention at any time

by written notification addressed to the depositary.

2. The denunciation takes effect on the first day of the month following the expiration of one year after the notification is received by the depositary. Where a longer period is specified in the notification, the denunciation takes effect upon the expiration of such longer period after the notification is received by the depositary.

3. This Convention remains applicable to assignments if the contract of assignment is concluded before the date when the denunciation takes effect in respect of the Contracting State referred to in article 1, paragraph 1 (a), provided that the provisions of this Convention that deal with the rights and obligations of the debtor remain applicable only to assignments of receivables arising from original contracts concluded before the date when the denunciation takes effect in respect of the Contracting State referred to in article 1, paragraph 3.

4. If a receivable is assigned pursuant to a contract of assignment concluded before the date when the denunciation takes effect in respect of the Contracting State referred to in article 1, paragraph 1 (a), the right of the assignee has priority over the right of a competing claimant with respect to the receivable to the extent that, under the law that would determine priority under this Convention, the right of the assignee would have priority.

Article 47 - Revision and amendment

1. At the request of not less than one third of the Contracting States to this Convention, the depositary shall convene a conference of the Contracting States to revise or amend it.

2. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to this Convention is deemed to apply to the Convention as amended.

269 **ANNEX TO THE CONVENTION**

270 **SECTION I - PRIORITY RULES BASED ON
REGISTRATION**

271 **Article 1 - Priority among several assignees**

272 As between assignees of the same receivable from the same assignor, the priority of the right of an assignee in the assigned receivable is determined by the order in which data about the assignment are registered under section II of this annex, regardless of the time of transfer of the receivable. If no such data are registered, priority is determined by the order of conclusion of the respective contracts of assignment.

273 **Article 2 - Priority between the assignee and the
insolvency administrator or creditors of the
assignor**

274 The right of an assignee in an assigned receivable has priority over the right of an insolvency administrator and creditors who obtain a right in the assigned receivable by attachment, judicial act or similar act of a competent authority that gives rise to such right, if the receivable was assigned, and data about the assignment were registered under section II of this annex, before the commencement of such insolvency proceeding, attachment, judicial act or similar act.

275 **SECTION II - REGISTRATION**

276 **Article 3 - Establishment of a registration system**

277 A registration system will be established for the registration of data about assignments, even if the relevant assignment or receivable is

not international, pursuant to the regulations to be promulgated by the registrar and the supervising authority. Regulations promulgated by the registrar and the supervising authority under this annex shall be consistent with this annex. The regulations will prescribe in detail the manner in which the registration system will operate, as well as the procedure for resolving disputes relating to that operation.

Article 4 - Registration

278

1. Any person may register data with regard to an assignment at the registry in accordance with this annex and the regulations. As provided in the regulations, the data registered shall be the identification of the assignor and the assignee and a brief description of the assigned receivables.

279

2. A single registration may cover one or more assignments by the assignor to the assignee of one or more existing or future receivables, irrespective of whether the receivables exist at the time of registration.

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3. A registration may be made in advance of the assignment to which it relates. The regulations will establish the procedure for the cancellation of a registration in the event that the assignment is not made.

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4. Registration or its amendment is effective from the time when the data set forth in paragraph 1 of this article are available to searchers. The registering party may specify, from options set forth in the regulations, a period of effectiveness for the registration. In the absence of such a specification, a registration is effective for a period of five years.

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5. Regulations will specify the manner in which registration may be renewed, amended or cancelled and regulate such other matters as are necessary for the operation of the registration system.

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284 6. Any defect, irregularity, omission or error with regard to the
identification of the assignor that would result in data registered
not being found upon a search based on a proper identification of
the assignor renders the registration ineffective.

285 **Article 5 - Registry searches**

286 1. Any person may search the records of the registry according to
identification of the assignor, as set forth in the regulations, and
obtain a search result in writing.

287 2. A search result in writing that purports to be issued by the
registry is admissible as evidence and is, in the absence of evidence
to the contrary, proof of the registration of the data to which the
search relates, including the date and hour of registration.

288 **SECTION III - PRIORITY RULES BASED ON THE
TIME OF THE CONTRACT OF
ASSIGNMENT**

289 **Article 6 - Priority among several assignees**

290 As between assignees of the same receivable from the same assignor,
the priority of the right of an assignee in the assigned receivable is
determined by the order of conclusion of the respective contracts of
assignment.

291 **Article 7 - Priority between the assignee and the
insolvency administrator or creditors of the
assignor**

292 The right of an assignee in an assigned receivable has priority over
the right of an insolvency administrator and creditors who obtain
a right in the assigned receivable by attachment, judicial act or

similar act of a competent authority that gives rise to such right,
if the receivable was assigned before the commencement of such
insolvency proceeding, attachment, judicial act or similar act.

Article 8 - Proof of time of contract of assignment

293

The time of conclusion of a contract of assignment in respect of
articles 6 and 7 of this annex may be proved by any means, including
witnesses.

294

**SECTION IV - PRIORITY RULES BASED ON THE
TIME OF NOTIFICATION OF
ASSIGNMENT**

295

Article 9 - Priority among several assignees

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As between assignees of the same receivable from the same assignor,
the priority of the right of an assignee in the assigned receivable
is determined by the order in which notification of the respective
assignments is received by the debtor. However, an assignee may
not obtain priority over a prior assignment of which the assignee had
knowledge at the time of conclusion of the contract of assignment
to that assignee by notifying the debtor.

297

**Article 10 - Priority between the assignee and the
insolvency administrator or creditors of the
assignor**

298

The right of an assignee in an assigned receivable has priority over
the right of an insolvency administrator and creditors who obtain
a right in the assigned receivable by attachment, judicial act or
similar act of a competent authority that gives rise to such right,
if the receivable was assigned and notification was received by the

299

debtor before the commencement of such insolvency proceeding,
attachment, judicial act or similar act.

[Post Provisions]

300 DONE at New York, this 12th day of December two thousand one,
in a single original, of which the Arabic, Chinese, English, French,
Russian and Spanish texts are equally authentic.

301 IN WITNESS WHEREOF the undersigned plenipotentiaries, being
duly authorized by their respective Governments, have signed the
present Convention.

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302

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