

HCCH's work on the cross-border legal dimensions of digital trade Issues for discussion

**Submission by the Hague Conference on Private International
Law (HCCH)**

I. Introduction

1. The Hague Conference on Private International Law (HCCH) is the permanent intergovernmental organisation whose purpose, under Article 1 of its Statute, is to work for the progressive unification of the rules of private international law (PIL). The HCCH's work relevant to the Joint Session proceeds under mandates conferred by its Council on General Affairs and Policy (CGAP). The relevant mandates and work of the HCCH are described in the Background Paper (A/CN.9/S-1/4, paras 1–3).
2. The present paper was prepared by the Permanent Bureau of the Hague Conference on Private International Law (HCCH) as part of the HCCH's contribution to the Joint Session (see also the background paper, A/CN.9/S-1/4, paras. 1 to 3). It is based on the mandates conferred by CGAP and the work undertaken pursuant to them. Its contents do not prejudice any future decision of CGAP or the outcome of ongoing work within the HCCH.
3. This paper sets out, as a basis for discussion, the private international law (PIL) questions arising in the subject areas addressed at the Joint Session: cross-border digital payments; digitally-mediated environments/digital platforms; and secured transactions involving digital assets.
4. The legal relationships and disputes considered under these three subject areas may, depending on their character, the States concerned and the requirements of the relevant instrument, fall within the scope of existing HCCH Conventions and instruments or engage ongoing HCCH work. Depending on the character of the relationship and dispute, the HCCH 2005 Choice of Court Convention¹ may govern the effectiveness of an exclusive choice of court agreement and the recognition and enforcement of a judgment given by the chosen court, while the HCCH 2019 Judgments Convention² may govern the cross-border recognition and enforcement of judgments in civil or commercial matters. The HCCH 2015 Principles on Choice of Law in International Commercial Contracts³ provide an established framework for choice of law in international commercial relationships. The HCCH 2006 Securities Convention⁴ contains specialised applicable law rules for certain rights, including security interests, in respect of securities held with an intermediary. The HCCH's post-Convention work also examines the operation of that framework in light of digital developments in securities markets, and is therefore relevant to determining the relationship between existing HCCH work and issues considered under the digitally mediated environments and secured-transactions subject areas.
5. Whether any particular HCCH instrument applies in relation to a given topic depends on its scope, the States concerned and the requirements of the instrument. Where an instrument does not apply directly, its architecture and underlying PIL techniques may nevertheless inform the identification and assessment of issues within the three workstreams.

II. Central bank digital currencies and cross-border digital payments

A. Subject matter scope and relevant relationships

6. The payment function provides the substantive boundary for this workstream. The arrangements covered by this workstream transfer value for the purpose of discharging a payment obligation and

¹ HCCH, Convention of 30 June 2005 on Choice of Court Agreements; status information is available on the HCCH website under the 2005 Choice of Court Convention.

² HCCH, Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters; status information is available on the HCCH website under the 2019 Judgments Convention.

³ HCCH, Principles on Choice of Law in International Commercial Contracts (2015).

⁴ HCCH, Convention of 5 July 2006 on the Law Applicable to Certain Rights in Respect of Securities Held with an Intermediary; status information is available on the HCCH website under the 2006 Securities Convention.

have a cross-border element in the payment, the participants or the payment system. They may include central bank digital currencies, tokenised deposits, stablecoins, electronic money and other digital representations of value when used for that function. An instrument does not enter the enquiry merely because it can technically be used for payment.⁵

7. A cross-border digital payment may involve the underlying obligation between payer and payee; the relationship between a customer and a payment service provider or issuer; relationships among payment service providers, intermediaries and settlement systems; and an account, custody or proprietary relationship concerning the value transferred. The relevant forum and applicable law may differ between these relationships.
8. The PIL enquiry identifies the court competent to decide a dispute, the law governing each relationship or issue, and the cross-border effect of the resulting decision. It does not supply the substantive rules on finality, discharge, liability or system operation that are under consideration in UNCITRAL's digital payments work.⁶
 - Q1 Does the payment function identify the appropriate substantive boundary, and how should the cross-border element be expressed?**
 - Q2 Which payment relationships and use cases should receive priority in the PIL analysis?**

B. Safeguards

9. Minimum safeguards include effective access to justice, notice and an opportunity to be heard, protection against fraud or abuse, and an effective remedy for an unauthorised, erroneous or failed payment. The ability to identify the responsible issuer, payment service provider or intermediary and to obtain intelligible information about the terms governing the payment is especially important where a customer or payee is a weaker party.
10. For the purposes of the discussion, these safeguards may be approached as minimum international standards, while the law and procedure of the appropriate forum determine how they are implemented. Subject to any applicable international obligation, the law and procedure of the appropriate forum determine which further safeguards apply and how the relevant protections are implemented. The availability and authority of that forum are therefore integral to the practical protection afforded to payment participants.
 - Q3 Which minimum safeguards are necessary for participants in a cross-border digital payment, and do particular payment models require additional protection?**

C. Public policy and overriding mandatory rules

11. Digital payments engage public interests including monetary and financial stability, prudential supervision, licensing, sanctions, anti-money-laundering and counter-terrorist-financing requirements, data protection and consumer regulation. These matters do not shape PIL rules merely because they affect a cross-border payment. Their effect may follow from the subject-matter scope of an instrument, the forum's overriding mandatory rules, public policy or limits on party autonomy.
12. A precise boundary is necessary because the same facts may support a private claim for payment, restitution or damages and also engage a regulatory rule. The analysis separates the private

⁵ Aide-mémoire of the sixth meeting of the Experts' Group on CBDCs, September 2026, paras 10-12 and 24-25.

⁶ UNCITRAL, Exploratory work on digital payments, A/CN.9/1262, paras 53–75; Report of the United Nations Commission on International Trade Law, Fifty-ninth session, UN Doc A/81/17, paras 201–205; UNCITRAL, UNCITRAL-HCCH Joint Session on the Cross-Border Legal Dimensions of Digital Trade: UNCITRAL's work on secured transactions involving digital assets, digital payments and digital platforms - background paper, A/CN.9/S-1/2, paras 93–94.

relationship from the regulatory interest without assuming that either must displace the other in every case.

Q4 Which regulatory matters require an express exclusion from the digital-payments analysis, and which can be accommodated through overriding mandatory rules, public policy or limits on party autonomy?

D. Jurisdiction

13. Choice of court may provide predictability in customer, participation and system agreements. Its effect depends on consent, the parties and claims within the clause, and any limit protecting a consumer, another weaker party or a person who did not assent to the relevant agreement. A system rulebook cannot by itself confer jurisdiction over every payee, creditor or insolvency representative affected by the payment.
14. In the absence of an effective choice, possible grounds include the defendant's habitual residence or place of business, a relevant branch, the place of performance and the place where a harmful event occurred. The location of an issuer, intermediary, account or settlement function may be relevant to particular claims. Technical access to a payment service from a State does not, without an additional connection, make that State an appropriate forum.
15. Jurisdiction over the merits is distinct from authority to preserve records, restrain a transfer or protect an account pending judgment. The territorial and personal limits of measures directed to a foreign issuer, intermediary or system operator require separate consideration.

Q5 For which payment relationships and claims is a choice of court appropriate, and what limits are required for weaker parties and non-participants?

Q6 Which objective grounds provide a substantial and foreseeable connection for claims involving an issuer, payment service provider, intermediary or settlement system?

E. Applicable law

16. The applicable law is identified for a relationship or defined issue, rather than for the payment instrument as a whole. The underlying obligation, customer-provider relationship, inter-provider arrangements, system rules and proprietary or account effects need not be governed by one law.
17. Party autonomy may govern commercial contracts and participation arrangements. Its operation depends on the scope of the choice and on the persons it binds. A choice in a customer agreement or system rulebook does not automatically determine discharge of the underlying obligation, proprietary effects, the position of a payee or creditor, or consequences of insolvency.
18. Where there is no effective choice, an objective connecting factor is selected for the relationship and issue. Possible factors include a party's habitual residence or place of business, a relevant branch, the place of performance, the location of an account or intermediary, or a legally significant connection to an issuer or payment system. The factor must be sufficiently stable and ascertainable to the affected parties.
19. Issues requiring allocation include authority to initiate and execute a payment, rights and obligations of participants, effectiveness and finality, discharge, allocation of loss, proprietary effects and insolvency. Changes in the relevant intermediary, account structure or system may also alter a connecting factor after a payment or right has arisen.

Q7 Which payment relationships and issues require separate choice-of-law rules, and where can one law appropriately govern more than one layer of the payment?

- Q8** What effect should be given to a choice of law in a customer agreement, participation agreement or system rulebook, particularly in relation to payees, creditors and insolvency representatives?
- Q9** Which objective connecting factors are workable for the principal digital-payment relationships, and how should a later change in the connecting factor be treated?

F. Recognition and enforcement

20. Judgments arising from digital payments may fall within the 2005 Choice of Court Convention or the 2019 Judgments Convention when their respective requirements are met. The digital form of the payment does not by itself alter that analysis. Questions may nevertheless arise concerning applicable exclusions, procedural fairness, public policy and the connection between the State of origin and the dispute.
21. Non-monetary relief may present additional difficulty. An order may affect an account, payment record or digital value, or require action by an issuer, intermediary or operator outside the State of origin. The issue may concern the territorial reach and practical enforcement of the order rather than recognition of the judgment itself.
- Q10** Which payment judgments are likely to fall outside existing HCCH instruments or create a distinct problem at the recognition stage?
- Q11** Which non-monetary orders affecting an account, record or transfer present the greatest enforcement difficulty across borders?

G. International cooperation mechanisms

22. Cooperation may be needed to identify an issuer or intermediary, serve a defendant, obtain transaction records, preserve evidence or implement provisional relief. Payment data may be distributed among several actors and may need to be secured before a transfer becomes irreversible or value is moved elsewhere.
23. The need for any additional mechanism depends on demonstrated gaps in existing channels, the measures that courts may lawfully request and execute, and safeguards concerning data protection, confidentiality, legal privilege and cybersecurity. The Experts' Group on CBDCs recommended that CGAP consider establishing a Working Group to develop proposed PIL solutions for cross-border digital payments. This remains a recommendation of the Experts' Group: CGAP has not yet decided whether to establish the proposed Working Group and is expected to consider the recommendation at its March 2027 meeting.⁷
- Q12** Which requests for information, evidence, preservation or provisional relief arise most often in cross-border digital-payment disputes?
- Q13** Where do existing cooperation mechanisms fail to provide assistance quickly enough to protect the proceedings or the value in dispute?

⁷ Aide-mémoire of the sixth meeting of the Experts' Group on Central Bank Digital Currencies, September 2026, paras 10–12 and 24–25.

III. Digital tokens and digitally mediated environments / digital platforms

A. Subject matter scope and relevant relationships

24. The HCCH's Digital Tokens Project includes separate work on a PIL supplement complementing the UNCITRAL Model Law on Electronic Transferable Records (MLETR).⁸ MLETR is a standing UNCITRAL instrument and is not under consideration for update. The HCCH work supplements that instrument with PIL rules rather than reopening its substantive provisions. The Experts' Group has agreed by consensus that a PIL instrument relating to ETRs is desirable and feasible and that work towards a binding Convention is the most desirable outcome; that work proceeds as a separate HCCH workstream and is therefore not within the substantive scope of this paper or the Joint Session. ETRs are therefore not addressed as a separate subject in this paper or at the Joint Session. They are mentioned below only where directly relevant to secured transactions.
25. For the remaining enquiry, "digital platforms" does not provide an adequate PIL boundary. The term carries different meanings across legal, commercial and technological contexts and may imply an identifiable operator where none exists. UNCITRAL's work uses a platform-to-user contract with an identifiable operator as a principal starting point.⁹ The HCCH enquiry also encounters custodial services, registries, exchanges, decentralised networks and hybrid arrangements.
26. "Digitally mediated environments" describes the setting in which legal relationships are created, evidenced or performed through a digital system. The relevant relationships may include operator-user, user-user, issuer-holder, custodian-client, account or wallet arrangements, governance relationships and automated performance. The term does not itself determine jurisdiction or applicable law. This relational and ecosystem analysis reflects the work of the Experts' Group on Digital Tokens. It keeps the PIL enquiry directed to concrete actors, rights, obligations and remedies, including in arrangements without a central operator.¹⁰

Q14 Does 'digitally mediated environments / digital platforms' provide a sufficiently clear boundary while keeping the analysis focused on particular legal relationships?

Q15 Which relationships and use cases should receive priority, including operator-user, user-user, issuer-holder, custody, governance and automated-performance arrangements?

B. Safeguards

27. Minimum safeguards include the ability to identify a responsible actor, obtain intelligible terms, receive notice of proceedings or action affecting a right, preserve evidence and obtain an effective remedy. Additional protection may be required where a consumer, employee, small business or other weaker party is required to transact under standard platform, wallet or system terms.
28. Automated performance, pseudonymous participation and decentralised governance may make ordinary safeguards difficult to implement. The law and procedure of the appropriate forum determine how minimum international standards are given effect and which further protections apply.

Q16 Which minimum safeguards require specific attention in digitally mediated environments, particularly where identity, responsibility or the terms of participation are unclear?

⁸ UNCITRAL, Model Law on Electronic Transferable Records (2017), UN Doc A/72/17, annex II.

⁹ UNCITRAL, Exploratory work on digital platforms and private law, A/CN.9/1259, paras 13–19 and 81–87.

¹⁰ HCCH, Report on Exploratory Work: Digital Tokens Project, Prel. Doc. No 4 of November 2024, paras 9–10 and 27–29; Aide-mémoire of the second meeting of the Experts' Group on Digital Tokens, November 2025, para. 35; Aide-mémoire of the third meeting of the Experts' Group on Digital Tokens, May 2026, paras 13 and 19.

C. Public policy and overriding mandatory rules

29. Digitally mediated activities may engage data and privacy protection, consumer and employment law, competition law, financial regulation, sanctions, anti-money-laundering requirements and rules governing particular content or services. The private claim remains distinct from the regulatory or public-law rule that affects it.
30. The effect of these interests may be addressed through an express subject-matter exclusion, an overriding mandatory provision, public policy or a limit on party autonomy. A broad platform exclusion may be imprecise because it depends on an unstable description of the technological or commercial setting rather than the legal issue.

Q17 Which regulatory or public-law matters require an express carve-out, and which are better addressed through overriding mandatory rules, public policy or limits on party autonomy?

D. Jurisdiction

31. Subject to consent, a choice of court may determine jurisdiction over disputes arising from an operator-user, custody or other commercial relationship, the scope of the clause, and protection of weaker parties. A clause in system or governance rules requires separate analysis before it can bind another user, creditor, transferee or person who did not agree to it.
32. Objective jurisdiction may depend on the defendant's habitual residence or place of business, a relevant branch, the place of performance, a harmful event or the place where relief would operate. A user's location, interface or access point may contribute to the analysis but does not alone establish a substantial connection. Global technical accessibility does not make every State an appropriate forum.
33. Claims in decentralised arrangements may require identification of actors performing legally relevant functions, including custody, validation, governance, interface or administrative functions. Jurisdiction over the merits is distinct from authority to preserve records, restrict access or require action by a foreign intermediary or operator.

Q18 What effect should be given to a choice of court in user agreements, system rules or governance arrangements, and when may that choice affect a non-participant?

Q19 Where there is no identifiable operator or central intermediary, which actors, functions or connections provide an appropriate objective jurisdictional ground?

Q20 What jurisdictional grounds should be available for provisional or protective measures concerning digital value, including where relief is sought against a person whose identity is unknown?

Q21 How should parallel proceedings be coordinated where an operator, intermediary or other relevant actor may be subject to inconsistent orders made by courts in different States?

E. Applicable law

34. The applicable law is identified for the relevant relationship or issue, not for a platform, token or digital environment as a whole. Different laws may govern a user agreement, a user-to-user transaction, custody, transfer, third-party effects, governance rules and a linked external right or asset.
35. Party autonomy may govern relationships among consenting commercial participants. Its effect depends on the scope and accessibility of the choice and on any protection afforded to weaker parties or non-participants. A choice in system or governance rules does not automatically determine proprietary effects, priority, insolvency or the law governing a linked asset.

36. Where there is no effective choice, the objective factor follows the functions and legally significant connections of the relationship. Relevant connections may include the habitual residence or place of business of an actor, a relevant branch, the place of performance, an account or custody relationship, an issuer or a register. The purported location of data or a distributed ledger is insufficient unless it identifies a stable legal connection.
37. Where a token or record is linked to an external right or asset, the analysis distinguishes the law governing the relationship concerning the token or record, the law governing the linked right or asset, and the law governing the legal effect of the link. A technical representation does not by itself determine whether transfer of the token or record transfers the linked right.
- Q22 Which relationships and issues require separate choice-of-law rules within a digitally mediated environment?**
- Q23 When should a choice of law in user agreements, system rules or governance arrangements affect non-participants or third parties?**
- Q24 Which objective connecting factors remain stable and ascertainable where actors and functions are distributed or no central operator exists?**
- Q25 Where an entitlement is constituted, recorded or transferred across more than one digitally mediated environment, which law should govern its existence, transfer, third-party effects and priority, and how should the laws connected with the different environments be coordinated?**

F. Recognition and enforcement

38. Judgments concerning contractual or other civil and commercial claims may circulate under existing HCCH instruments when their conditions are met. The recognition analysis remains distinct from recognition of an underlying status, entitlement or transaction recorded in a digital system.
39. Orders concerning access to, preservation, restriction or transfer of digital value may require action by an operator, intermediary, administrator or participant in another State. Practical enforceability may depend on whether an identifiable person has the legal authority and technical ability to comply.
- Q26 Which judgments arising in digitally mediated environments fall within existing HCCH recognition and enforcement instruments, and what issues, if any, remain outside their operation?**
- Q27 Which orders concerning access, control, preservation or transfer of digital value create the greatest difficulty across borders?**

G. International cooperation mechanisms

40. Cooperation may be needed to identify a defendant or relevant intermediary, serve proceedings, preserve and produce system records, attribute conduct or implement provisional relief. The necessary information may be held by several private actors in different States or may require technical assistance to interpret.
41. Existing cooperation mechanisms remain the starting point. Any additional mechanism would require a defined need, identifiable authorities and measures, and safeguards concerning privacy, confidentiality, privilege, cybersecurity and procedural fairness.
- Q28 Which requests for identity information, service, evidence, preservation or technical assistance arise most often in disputes concerning digitally mediated environments?**

Q29 To what extent can existing HCCH instruments and other international legal cooperation mechanisms support timely and effective relief in disputes concerning digitally mediated environments, and what gaps, if any, remain?

IV. Secured transactions involving digital assets

A. Scope and relevant relationships

42. For the purposes of the Joint Sessions, PIL issues concerning secured transactions involving digital assets may arise in relation to consensual security rights in digital assets and in rights represented or evidenced by digital records. Relevant relationships may include those involving grantors, secured creditors, competing claimants and transferees, account providers or custodians, third-party obligors and insolvency representatives. The discussion may concern issues including creation, third-party effectiveness, priority, enforcement, proceeds, changes in the form or custody of collateral, competing transfers and insolvency. This framing is intended solely to identify issues for discussion at the Joint Sessions and does not prejudice the scope or outcome of the work of the UNCITRAL Working Group.
43. ETRs may embody rights to payment or delivery and may serve as collateral in trade and supply-chain finance. The separate HCCH work complementing MLETR is relevant to third-party effectiveness, priority, control and the effect of transferring an ETR on rights in represented goods. Intermediated securities within the scope of the 2006 Securities Convention remain subject to that specialised PIL framework.¹¹

Q30 Which categories of digital assets and digital records should be examined first against the existing PIL framework, including Chapter VIII of the Model Law and relevant HCCH instruments and workstreams?

Q31 Are the boundaries with the 2006 Securities Convention and the HCCH work complementing MLETR sufficiently clear?

B. Safeguards

44. Minimum safeguards protect the grantor, secured creditor, competing claimants and third-party obligors. They include notice and an opportunity to be heard, transparent enforcement, protection against unauthorised disposal, and a meaningful opportunity to challenge measures affecting collateral or proceeds.
45. Rules on third-party effectiveness and priority place particular weight on foreseeability and ascertainability. A creditor or transferee must be able to determine, with reasonable diligence, the law governing the relevant issue and the steps by which an existing security right may be discovered. The forum's law and procedure determine how minimum safeguards are implemented in enforcement or insolvency proceedings.

Q32 Which minimum safeguards are required for enforcement against digital collateral and for the protection of competing claimants and third-party obligors?

C. Public policy and overriding mandatory rules

46. Secured transactions involving digital assets may intersect with insolvency, prudential and market regulation, sanctions, anti-money-laundering requirements, consumer protection, data protection

¹¹ HCCH, Convention of 5 July 2006 on the Law Applicable to Certain Rights in Respect of Securities Held with an Intermediary.

and asset-specific regimes. Some matters may fall outside the civil and commercial scope of a PIL instrument, while others operate through overriding mandatory rules or public policy.

47. The boundary requires particular care where a regulated asset or intermediary is involved. An exclusion directed to a category such as intermediated securities, rather than to digital assets generally, can preserve an existing specialised regime without removing unrelated security rights from the analysis.

Q33 Which regulated assets, proceedings or public-law matters require an express carve-out, and which can be addressed through overriding mandatory rules or public policy?

D. Jurisdiction

48. A choice of court may govern disputes between a grantor and secured creditor or other consenting commercial parties. Its effect on competing claimants, third-party obligors and an insolvency representative requires separate analysis. Party choice cannot displace a court's exclusive authority over insolvency proceedings, public registers or enforcement measures where the forum's law or an applicable international instrument reserves such authority.
49. Objective grounds may include the defendant's habitual residence or place of business, the grantor's location, a relevant branch, the place of enforcement, or a legally significant intermediary, account or register. The asserted location of data or a distributed ledger does not provide a jurisdictional ground without a real connection to the claim.
50. Provisional and enforcement measures may be required to preserve digital collateral, prevent transfer, obtain control, realise value or trace proceeds. The court's authority over a foreign intermediary, custodian or person able to control the asset may determine whether relief is effective.

Q34 For which secured-transactions disputes is a choice of court effective, and when must jurisdiction be determined independently for third parties or insolvency proceedings?

Q35 Which objective grounds are appropriate for disputes concerning creation, priority or enforcement of a security right in a digital asset?

E. Applicable law

51. Chapter VIII uses issue-specific rules for creation, third-party effectiveness, priority and enforcement, together with specified rights and obligations among parties and third-party obligors. Digital-asset use cases allow delegates to identify where those rules produce a clear result and where application of a connecting factor remains uncertain.
52. Party autonomy may govern the contractual relationship between grantor and secured creditor. It does not automatically determine third-party effectiveness, priority, the position of a transferee or the consequences of insolvency. Those issues require a law that is foreseeable and ascertainable to persons who did not participate in the choice.
53. Possible objective connecting factors include the grantor's location, an account or intermediary relationship, a register, an issuer or system, the law governing a represented claim, or an objectively ascertainable control arrangement. Their suitability differs by issue and by the manner in which the digital asset is held or transferred.
54. Control may perform a substantive function in creation, third-party effectiveness, priority or enforcement and may also be relevant to the choice of law. These functions remain distinct. A technical ability to transfer an asset does not necessarily establish legal authority, publicity or a stable connection to a legal system.

55. Where a digital asset represents or is linked to another asset, right or claim, the analysis distinguishes the security right in the digital asset from any security right in the represented asset. Changes in custody, control, system, governing law or asset form may alter the connecting factor after a security right has been created or made effective against third parties.

Q36 Which Chapter VIII rules operate adequately for security rights involving digital assets, and which produce uncertainty in the principal use cases?

Q37 Which connecting factors are appropriate for creation, third-party effectiveness, priority and enforcement, and when should different issues be governed by different laws?

Q38 When is control relevant to the choice of law, and how should represented assets and later changes in custody, control, system or asset form be treated?

F. Recognition and enforcement

56. Judgments concerning contractual rights, validity or enforcement of a security right may circulate under existing HCCH instruments when their conditions are met. Judgments closely connected with insolvency or the operation of a public register may fall outside an instrument's scope or engage specialised rules. In particular, the HCCH 2019 Judgments Convention may facilitate the cross-border recognition and enforcement of such judgments, subject to its scope, eligibility requirements and grounds for refusal.

57. Orders directed to digital collateral may require transfer, restriction, delivery of credentials, action by a custodian or intermediary, or realisation of value in another State. Recognition of the judgment and practical enforcement of the requested measure must be distinguished.

Q39 Which judgments concerning secured transactions involving digital assets fall within existing HCCH recognition and enforcement instruments, and what issues, if any, remain outside their operation?

Q40 Which orders concerning control, transfer, preservation or realisation of digital collateral present the greatest cross-border enforcement difficulty?

G. International Cooperation Mechanisms

58. Cooperation may be needed to identify collateral and relevant intermediaries, obtain account or registry information, preserve evidence, trace proceeds or implement provisional and enforcement measures. Effective relief may depend on action by a custodian, account provider, registry or person able to control the asset in another State.

59. The need for an additional mechanism depends on gaps in existing channels and on the measures that authorities may lawfully request and execute. Any mechanism would also require safeguards for affected parties, confidential information, privilege, cybersecurity and competing proceedings.

Q41 Which requests for information, preservation, tracing or enforcement arise most often when digital collateral or a relevant intermediary is situated abroad?

Q42 To what extent can existing HCCH instruments and other international legal cooperation mechanisms support the protection or enforcement of security rights involving digital assets, and what gaps, if any, remain?

V. Conclusion

60. Each workstream presents the classical PIL sequence in a different commercial and technical setting. Digital payments are organised around the payment function and the relationships required to perform it. Digitally mediated environments / digital platforms encompass a range of

relationships without making the platform or digital asset the unit of analysis. Secured transactions require issue-specific examination of the existing Chapter VIII architecture.

61. Across the three workstreams, the central questions concern the appropriate forum, the law governing a defined relationship or issue, the effect of party choice on non-participants, the suitability of objective connecting factors, and the cross-border effectiveness of judgments and measures. Safeguards and public-law interests frame those questions, while cooperation becomes relevant where effective relief depends on information or action abroad. Responses will help identify where existing PIL rules and HCCH instruments provide an adequate answer and where further analysis may be required.