Título	**Grupo de Expertos sobre Monedas Digitales de Bancos Centrales: Informes de las tercera y cuarta reuniones**
Documento	**Doc. Prel. N.º 3 de noviembre de 2025**
Autor	OP Grupo de Expertos sobre Monedas Digitales de Bancos Centrales (Grupo de Expertos) Presidenta del Grupo de Expertos
Punto de la agenda	Por determinarse
Mandatos	CyD N.º 13 del CAGP de 2025
Objetivo	Informar sobre las tercera y cuarta reuniones del Grupo de Expertos
Acción requerida	Decisión ☒ Aprobación ☐ Discusión ☐ Acción/finalización ☐ A título informativo ☐
Anexos	Anexo I: *Report of the third meeting* Anexo II: *List of participants of the third meeting* Anexo III: *Aide-mémoire of the fourth meeting prepared by the Chair* Anexo IV: *List of participants of the fourth meeting*
Documentos relacionados	- Doc. Prel. N.º 3 de diciembre de 2024 - Grupo de Expertos sobre Monedas Digitales de Bancos Centrales: Informe - Doc. Prel. N.º 4 de enero de 2024 - Aspectos de derecho internacional privado de las monedas digitales de bancos centrales (CBDC)

Índice

Grupo de Expertos sobre Monedas Digitales de Bancos Centrales: Informes de las tercera y cuarta reuniones

I. Introducción

1 El Grupo de Expertos sobre Monedas Digitales de Bancos Centrales (Grupo de Expertos) fue creado "para estudiar las cuestiones de derecho aplicable y competencia judicial que plantean la utilización y las transferencias transfronterizas de CBDC", según la Conclusión y Decisión (CyD) N.º 10 del Consejo de Asuntos Generales y Política (CAGP) de 2024.[1] Desde entonces, el Grupo de Expertos se reunió en cuatro ocasiones. Las dos primeras reuniones se celebraron en junio y noviembre de 2024. Los informes de esas reuniones se presentaron al CAGP en marzo de 2025.[2]

2 Conforme a la CyD N.º 13 del CAGP de 2025,[3] el Grupo de Expertos se reunió en dos ocasiones más en 2025.

3 La tercera reunión del Grupo de Expertos tuvo lugar del 24 al 26 de marzo de 2025. Se celebró en línea y contó con la participación de 29 delegados y otros expertos en representación de 12 Miembros de la HCCH y cuatro Observadores, así como personal de la Oficina Permanente (OP). En esa tercera reunión, el Grupo de Expertos debatió sobre los posibles documentos que podría elaborar, entre ellos —a largo plazo—, un instrumento normativo vinculante sobre las cuestiones relativas a la competencia judicial y al derecho aplicable que plantean la utilización y las transferencias transfronterizas de monedas digitales de bancos centrales (CBDC). El Grupo de Expertos acordó por consenso que, a mediano plazo, debe elaborar un documento explicativo no vinculante, al que se hace referencia como "orientaciones explicativas".[4] El objetivo de las orientaciones explicativas es exponer las cuestiones clave relativas a la competencia judicial y al derecho aplicable que se plantean en relación con las CBDC, así como las características de los diversos modelos de CBDC que podrían influir en dichas cuestiones. Estas orientaciones explicativas están dirigidas tanto a expertos en derecho internacional privado como a personas que trabajan en la elaboración de CBDC. En el presente documento, el informe de la tercera reunión figura en el anexo I, y la lista de participantes en el anexo II.

4 La cuarta reunión del Grupo de Expertos tuvo lugar del 17 al 19 de septiembre de 2025. Fue presencial y tuvo lugar en la sede de la OP de la HCCH en La Haya, aunque también fue posible la participación en línea. Asistieron cerca de 45 delegados y otros expertos en representación de 16 Miembros de la HCCH y siete Observadores, así como personal de la OP. En esa cuarta reunión, la profesora Caroline Kleiner, delegada de Francia, fue nombrada presidenta por consenso. Asimismo, se revisó el primer proyecto de las orientaciones explicativas y se debatieron las prioridades para su próxima revisión. El memorando sobre la cuarta reunión, elaborado por la presidenta, figura en el anexo III, y la lista de participantes, en el anexo IV.

5 El Grupo de Expertos invita al CAGP a tomar conocimiento del informe y del memorando que figuran en los anexos del presente documento.

6 A la luz de los avances logrados, el Grupo de Expertos recomienda lo siguiente:

- que el CAGP apruebe la continuación de la labor del Grupo de Expertos, en particular la celebración de dos reuniones más, así como que se trabaje entre reuniones, en 2026, antes

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1 "Conclusiones y Decisiones del CAGP de 2024 (5-8 de marzo de 2024)", CyD N.º 10 (disponible en el sitio web de la HCCH (www.hcch.net), en "Gobernanza", luego "Consejo de Asuntos Generales y Política" y "Archivo (2000-2025)").

2 "Grupo de Expertos sobre Monedas Digitales de Bancos Centrales: Informe", Prel. Doc. N.º 3 de diciembre de 2024 para el CAGP de 2025 (ver ruta indicada en la nota 1).

3 "Conclusiones y Decisiones del CAGP de 2024 (5-8 de marzo de 2024)" (ver ruta indicada en la nota 1).

4 *"HCCH Experts' Group on Central Bank Digital Currencies: Explanatory Guidance v.0"*, disponible en el Portal Seguro del sitio web de la HCCH (www.hcch.net), en "Grupos de Trabajo y de Expertos", luego "Grupo de Expertos sobre Monedas Digitales de Bancos Centrales".

de la reunión del CAGP de 2027, durante la cual se seguirá debatiendo el texto del proyecto de las orientaciones explicativas;

- que el CAGP apruebe la continuación de la labor del Grupo de Expertos para estudiar la conveniencia y viabilidad de un posible instrumento futuro sobre las cuestiones relativas a la competencia judicial y al derecho aplicable que plantean la utilización y las transferencias transfronterizas de CBDC.

II. Propuesta para el CAGP

7 Sobre la base de lo anterior, la OP propone la siguiente CyD para consideración del CAGP:

El CAGP toma nota del informe de la tercera reunión y del memorando de la presidenta sobre la cuarta reunión, y celebra los avances logrados por el Grupo de Expertos. Para seguir perfeccionando el texto de las orientaciones explicativas y continuar con el estudio de las cuestiones relativas a la competencia judicial y al derecho aplicable que plantean la utilización y las transferencias transfronterizas de CBDC —así como con el estudio de la conveniencia y viabilidad de un posible instrumento futuro sobre estas cuestiones—, el CAGP invita a la OP a convocar dos reuniones más del Grupo de Expertos antes del CAGP de 2027 —la primera podría tener lugar a finales de marzo o principios de abril de 2026, y la segunda, antes de finales de 2026—, así como trabajo entre dichas reuniones según sea necesario. Dichas reuniones deberán celebrarse preferentemente en persona, mientras que el trabajo entre reuniones, en línea. El Grupo de Expertos presentará un informe al CAGP de 2027.

ANEXOS

ANEXO I

EXPERTS' GROUP ON CBDCs

REPORT OF THE THIRD
WORKING MEETING

24-26 MARCH 2025

HCCH

Connecter Protéger Coopérer Depuis 1893
Connecting Protecting Cooperating Since 1893
Conectando Protegiendo Cooperando Desde 1893

HCCH Experts' Group on Central Bank Digital Currencies: Report of the Third Working Meeting (24-26 March 2025)

Table of Contents

HCCH Experts' Group on Central Bank Digital Currencies: Report of the Third Working Meeting (24-26 March 2025)

Introduction

1 From 24 to 26 March 2025, the Experts' Group on Central Bank Digital Currencies (EG on CBDCs) held its third working meeting via videoconference. Twenty-nine delegates and other experts, representing twelve HCCH Members and four Observers, participated in the meeting.[1]

2 Prior to the meeting, an Issues Paper (v.1) was prepared by the Permanent Bureau (PB) of the HCCH, compiling questions for the EG and prompts for discussion including the scope of the EG's study and the potential deliverables of its work. The issues paper also consolidated relevant discussions of the first and second working meetings, which took place in 2024.

3 This Report summarises key points of the discussions that took place during the meeting. The Report also includes conclusions regarding the potential deliverables of the EG and changes to be made to the Issues Paper, which will be iterated and re-issued in due course.

I. Approach to the EG's work and potential deliverables

4 The meeting opened with the discussion of the EG's possible deliverables. Experts noted that a binding normative instrument would be ideal in terms of improving global legal certainty and providing utility to the Members. Experts also noted that it may be expedient for the EG, in the intermediate term, to issue non-binding guidance with a view to providing assistance without disrupting the development of ongoing projects and legal frameworks. The guidance was described by the EG as an "explanatory product" and is referred to in this report as the "explanatory guidance", as the final form and title of the product are yet to be decided by the EG.

5 Experts noted that, in comparison to other matters in the digital environment, the development of CBDCs is at an earlier stage, and there is an opportunity to provide an informative and educational document to help governmental officials and the financial sector with explanations of PIL challenges that may arise around CBDCs. CBDCs also have a unique feature of being tied strongly to the public law, such that experts on PIL and private law would benefit from increased understanding of public law and monetary law matters, including public policy exceptions and overriding mandatory regulations that may be imposed. Similarly, experts on CBDCs (especially in its design phase) may benefit from guidance in relation to the methodologies, issues and challenges relating to PIL considerations around CBDCs. The audience for the HCCH's products would thus include government, the financial sector, and PIL-focused academics.

6 Experts noted the challenges of identifying and reconciling issues at an international level. Experts suggested to include a jurisdiction-by-jurisdiction analysis to identify the PIL topics that need guidance at an international level, with focus on answering PIL questions that would enable cross-border use rather than providing a full taxonomy of jurisdictional approaches. The PB noted that this could be achieved by first gathering the input of Members through a questionnaire. Experts also noted the importance of including practical examples in this analysis.

7 The EG concluded that the initial aim will be towards an explanatory soft law product, which may include a jurisdictional survey, practical examples, and where possible, initial drafting of possible rules for applicable law and jurisdiction. The EG also agreed by consensus to aim for a hard law instrument, explicitly noting that the explanatory guidance does not preclude further work on a hard

[1] A list of participants can be found on the Secure Portal of the HCCH website at www.hcch.net under "Working / Experts Groups" then "Experts' Group on Central Bank Digital Currencies".

law instrument. The PB asked for interested EG members to serve on a drafting committee for the explanatory guidance.

II. Scope and prioritisation of work

8 The EG discussed the bifurcation of work to focus initially on wholesale CBDCs (wCBDCs), in light of input received on the floor of CGAP 2025 that there was also interest from Members to move toward consideration of retail CBDCs (rCBDCs). An expert suggested that it is not possible to consider wCBDCs without also considering rCBDCs in the context of cross-border payments. The expert explained that no jurisdiction yet has a feasible plan for allowing foreign holders of rCBDCs, so cross-border settlement would still be done through wCBDCs. Another expert agreed, noting that the main conflict of law situations would occur in the use of rCBDCs.

9 Experts noted that the two types of CBDCs were difficult to consider in isolation, and should both be under consideration to illustrate how PIL issues may arise from both types of CBDCs. Likewise, in this early stage the EG should not rule out consideration of one-tiered and two-tiered systems or account-based and token-based systems. Additionally, clarity was needed on whether jurisdictions would eventually allow foreign holders of CBDCs. Cross-border settlement remains an issue with respect to wCBDCs. Another expert emphasised that the design of CBDCs is not yet absolutely determined in all jurisdictions, so it is still early to differentiate between wCBDCs and rCBDCs. The expert further suggested exploring the consequences of conflict of law and jurisdiction rules of both account-based and token-based CBDCs.

10 **The EG therefore agreed to discontinue the bifurcation of work and to consider both rCBDCs and wCBDCs in its work.**

11 The experts were presented with the list of matters that were excluded from the scope of the EG, and agreed with the list, noting that stablecoins and synthetic CBDCs would be better addressed by the EG on Digital Tokens since these are privately developed currencies. A delegate from Brazil noted concerns about the exclusion of multi-asset systems that raise issues about various instruments or products not directly related to CBDCs. The delegate expressed that Brazil is developing a programmable platform that combines central bank money and private money in a single platform, with a broader scope to include other assets in the same platform. Therefore, it would be interesting for the EG to consider multi-asset systems. An expert noted that no jurisdiction or choice of law issues will arise if the platform will only be operated within one jurisdiction. The delegate from Brazil clarified that currently there is no certainty as to the jurisdiction or choice of law issues that may arise. Another expert suggested discussing the inclusion of CBDCs in multi-asset systems without delving into the broader issues that may relate to them, which would keep the workload of the EG manageable. In addition, the expert noted that it may be best to allow the work on multi-asset systems by other international organisations to proceed before the EG discusses the issue.

12 **The EG agreed to retain the current list of exclusions, with modifications to note that multi-asset systems are not excluded but that the EG agreed to limited consideration and further monitoring of the issue.**

III. Taxonomy

13 At the meetings of the EG in 2024, the EG decided to adopt the Bank of International Settlements (BIS) taxonomy as presented in the first working meeting as a starting point for the study of CBDCs. The PB presented a table of commonly used terms in the Issues Paper v.1 for the EG's discussion in the meeting.

14 One expert suggested adding "programmable money" to the list of terms.

15 Experts commented on the need for clarification when defining the terms (h) 'infrastructure', (l) 'platforms', and (m) 'system', which are similar and potentially overlapping; therefore the EG should consider the sources and reasons underlying each respective usage, particularly if the EG decides to use any of these terms in its work.

16 One expert noted that the definition of CBDCs itself is context- dependent. As an example, "CBDCs" as defined in Hong Kong SAR has a specific carve-out for crypto and digital assets for purposes of anti-money laundering law, and not because of the nature of the CBDC itself.

17 An expert noted the need to distinguish between cross-border use of CBDCs (where PIL issues would arise) and cross-currency use of CBDCs (where conversion would be involved). Experts proceeded to discuss whether there are any PIL considerations specifically arising from cross-currency use. Experts suggested that the topic should not be excluded from the scope of the EG's work, but there was not yet a need to address it as a separate issue. It was suggested that the conversion can be considered as two distinct but connected transfers, which without further complexities in the two transfers would not create further PIL issues. One expert raised the possible legal problem of determining the date of conversion and/or the date of (each of) the transaction(s). Another expert opined that that the answer to this question would depend on the infrastructure of the payment system—payment versus payment or payment versus delivery.

18 The EG suggested inviting submissions on local legislation which may have definitions for the terms listed in the taxonomy.

IV. Core Functions and Features of CBDCs

19 The EG considered the lists of functions of CBDCs developed over the prior working meetings, derived from PB Note 3.1/2024 and the US Intersessional Submission.[2] Experts noted that certain CBDC projects and experiments have confirmed, on a policy level, that the CBDC will have legal tender status or that there are no significant legal barriers to granting a CBDC legal tender status. The legal tender status of a CBDC would likely mean that by default the CBDC will have the functions of mandatory acceptance and discharge of payment obligations when used for payment purposes (items 1 and 4 of the lists of functions and features developed in Note 3.1/2024).

20 An expert ruled out a potential scenario for the Digital Euro to be held by an external PSP—it would be a liability of the Eurosystem with transfers taking place on the infrastructure of the Eurosystem. Thus, assuming legal tender status is granted to a CBDC, the functions of mandatory acceptance and use for payment purposes were deemed to raise no PIL issues. Some experts also noted that the question of legal tender status would likely not arise if the CBDC only had a wholesale purpose for settlement between financial institutions. The experts agreed that the remaining functions of holding, transfer and collateralisation would be interesting matters of PIL, to the extent that the CBDC is held or used in a cross-border arrangement.

21 One cross-border holding example was raised in discussions on China's e-CNY. A delegate of China noted that digital wallet accounts for the e-CNY could be created using only a phone number, and that depending on the level of personal information verification provided, different tiers of wallets with higher holding limits or no holding limits could be accessed. The delegate confirmed that a non-resident could use a phone number foreign to China to hold and use e-CNY. There is currently not a functionality of storing CBDCs that are not e-CNY; a user would need to convert other currencies to RMB or e-CNY at a commercial bank.

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2 Intersessional Submission: Consolidated Submission from the Experts designated by the United States of America, available only on the Secure Portal of the HCCH website at www.hcch.net under "Working / Experts Groups" then "Experts' Group on Central Bank Digital Currencies".

22 The PB noted the discussion in the Issues Paper (part IV-A) highlighting the interconnectedness of the roles and relationships in the use of a CBDC. As suggested by the US Intersessional Submission, a helpful assumption would be to recognise that the central bank will likely be best placed to choose the applicable law for its CBDC and related platforms, while also recognising public policy exceptions and mandatory regulations. The PB also questioned how the scope of the applicable law should be delineated, such as whether it extended to an entire "system" of the CBDC and what specific definition could be used for "system".

23 Experts agreed as to the primary role of the central bank with regards to the application of central bank law. Experts noted that core issues would be governed by the *lex monetae*, but that it would be important to understand which matters are within the scope of the applicable law and which matters are dependent on the activity of the CBDC. For example, there could simultaneously exist rules on determination of applicable law to the collateral, and a separate law applicable to CBDC which forms part of the collateral. Experts discussed difficulties that may arise, noting that the application of a *lex situs* rule to different intermediaries may lead to the application of other law to the collateral. The holding structure between the central bank and the user becomes relevant to the PIL analysis.

24 The EG discussed how the roles of the parties in a commercial relationship would affect the applicable law, and whether the parties have the ability to affect the applicable law or if public policy considerations generally override their choice. The EG also discussed how this information would be presented in the EG's explanatory guidance.

25 Experts noted that it would be necessary to determine which applicable law takes precedence, or how the laws would interact. One expert noted that when PIL rules are established in absence of a choice, the connecting factor that will be applied will be the characteristic performance of the obligation; thus it will not be the monetary obligation that characterises the transaction. As a suggestion for approaching such questions, experts noted that it may be helpful to consider the scenario that applies to non-CBDC money before considering what, if anything, is special in the same situation when CBDC is used.

26 Similar examples were noted, seeking to create a distinction between the monetary and non-monetary aspects of transactions, such as (i) a contract for collateral where the law applicable to the contract is Canadian law, while the object of the collateral is Digital Euros; (ii) a purchase of land done in CBDC; and (iii) a purchase agreement with the applicable law chosen by the parties, but with transfer of underlying real property done according to the law of the property's location.

27 **Experts suggested that a list of illustrations of simple transactions would be helpful, and may include movable property, immovable property, service, credit, securities and setting off arrangements. This examination may consider whether PIL rules concerning the use of currency exist, and if such rules provide guidance on how they may affect the applicable law to a specific transaction.**

28 The EG discussed the role of CBDCs in payments systems and vice versa, particularly with respect to the explanatory guidance and the proposed hard law instrument. The EG discussed the possibility of a CBDC being implemented on a cross-border platform, raising the possibility that the platform is not governed by the same law as the law of the issuing country of the CBDC. Experts noted that such problems could be avoided by conclusion of agreements between monetary authorities and central banks.

29 **The PB requested experts to provide any information that was publicly available regarding the status of national CBDC projects, with a view to including such information in the EG's** explanatory guidance**.**

V. Actors and Intermediaries

30 The EG then discussed the list of actors contained in Secretariat Note 4/2024, and commented on the needs of the explanatory guidance with respect to the topic of actors and intermediaries. An expert explained that the target audience is experts in PIL who are not necessarily experts of financial markets, or central bank and monetary laws. For this audience, it would be necessary to explain the contractual relationships in retail and wholesale contexts that may exist between issuers and institutions such as banks, and whether such activity could be cross-jurisdictional. The expert noted that the terms used in the list of actors are terms of public regulatory law or the PIL of intermediated securities. Therefore, the terms and explanations also must be tailored for civil PIL experts.

31 An expert requested clarification on the inclusion in the list of the distinction between an intermediary and an agent. The PB recalled that the inclusion of agents arose from a discussion during the second working meeting of the EG, which concluded that agency law sufficiently describes these actors which cannot be considered intermediaries and are merely executing an order without having custody of the asset. The EG discussed whether intermediaries for functions such as providing authentication services should also be included in the scope of the project. An expert suggested describing agents in the explanatory guidance only to provide the target audience with a clearer picture of the overall environment of CBDCs. The EG agreed to include agents in the list of intermediaries for descriptive purposes, but to not provide any further analysis for PIL purposes.

32 **The EG agreed to include the functions, activities, and duties of intermediaries in the Issues Paper in the** explanatory guidance **and create a matrix in relation to the obligations of the intermediaries involved.**

33 The EG further discussed whether there are specific considerations in relation to the question of jurisdiction over intermediaries in the absence of a valid choice of court clause.

34 An expert noted that for European PIL, there is no specific consideration as to the kind of intermediary. Rather, what is considered is the type of relationship. The expert presented an example in the form of a contractual relationship. In this case, the general conflict of jurisdiction rule is considered, which is the defendant's domicile, then the connecting factor used is the place where the contractual obligation should have taken place. The expert explained that other than those considerations, there are no more specific grounds of jurisdiction for the use of CBDCs.

35 Continuing discussion of the example, the EG considered whether there are specific reasons to diverge from the established grounds of jurisdiction under the European PIL framework. An expert responded that since the Brussels I Regulation is currently under revision, there could be more specific grounds of jurisdiction and not just general rules of jurisdiction for contract or tort. The expert, however, expressed that to their knowledge, there are no specific grounds that would address the use of CBDCs in the Brussels I Regulation.

36 Another expert expressed that the question of jurisdiction is important because courts from different jurisdictions could hand down contradictory decisions about a certain CBDC. The expert further explained that a concentration of international jurisdiction about a specific currency would be necessary to ensure consistency of decisions by the courts because of the heavy impact on the issuer. The EG also discussed whether the concentration of international jurisdiction is specific to the digital nature of the currency. An expert asked the EG if an issuer should have a role in any determination of the jurisdiction or litigation concerning the substance of a CBDC.

37 **The EG agreed that there is a possible need for concentration of international jurisdiction to avoid fragmentation of jurisprudence when it comes to a CBDC.**

38 **The EG agreed to keep the current list of actors and their categories in the Issues Paper. The EG requested that the PB check the terms in the list to see whether they have been used in the PIL context. The EG agreed to introduce a definition of these terms in the** explanatory guidance**.**

VI. Relationships between Parties and Third Parties

39 The PB introduced this topic, explaining that it referred to third parties that may be associated with transactions and who may be relevant to principles like priority and the take-free rule. The PB noted the possibility of applying rules from existing frameworks such as the HCCH 2015 Principles on Choice of Law in International Commercial Contracts and the UNIDROIT DAPL Principles. No further comments or questions were raised by the EG on this topic.

VII. Public Policy Considerations and Overriding Mandatory Regulations

40 The EG then discussed the list of public policy considerations that was agreed to at the second working meeting.

41 Experts were of the view that public policy considerations concerning CBDCs were likely to have wide scope, because the issuer's interest in ensuring the stability of the CBDC system is of utmost importance. As an example, one expert contrasted digital tokens with CBDCs; while a private token may lose its entire value and be replaced by a competing offering in the market, a CBDC must be guaranteed in its functionality. In addition, the prevention of manipulation of CBDCs is another public policy consideration. Thus, compared to other private law assets such as securities or tokens, the public policy considerations in CBDCs must play a prominent role in any instrument.

42 The EG made a number of changes to streamline and organise the list of public policy considerations, noting that priority should be placed on the matters of financial stability, though bullets should be used in order to avoid creating a strict ranking. Some considerations in the list, such as financial inclusion and sustainability, were identified for removal as they are not typically considered within such exemptions. Experts also noted the value of providing a list of examples, which can be used to illustrate the kinds of public policy considerations that will arise.

43 The EG discussed Note 5/2024, which contains a selection of policy-based exceptions used in existing HCCH instruments. It was noted that HCCH instruments do not have a list of public policy considerations. Rather, the public policy considerations are set out in a general manner in the text of the instruments. The EG was referred to the 2006 Securities Convention and the 1985 Trusts Convention, which contain general clauses of public policy considerations.

44 As another example, the EG then considered the UNCITRAL Model Law on Secured Transactions (MLST), specifically Article 93 on overriding mandatory rules and public policy considerations.

45 An expert agreed that newest PIL instruments such as the 2015 Choice of Law Principles as well as domestic legislation on PIL do not usually include an elaborated list of public policy considerations. The expert also recommended stating in the explanatory guidance that a public policy provision and a separate overriding mandatory rules provision would be needed in the instrument. The expert emphasised the importance of framing the provision on public policy as merely a guide for the deciding judge, citing as an example the phrase commonly used in HCCH instruments, "manifestly contrary to the public policy of the forum." The expert further added that adding such a word, "manifestly," would have more effect than a list because a list cannot be exhaustive, and it is difficult to put a priority among public policy concerns.

46 Another expert explained three dimensions surrounding the public policy considerations of CBDCs. As to the first dimension, the expert pointed out that the selection of policy-based exceptions used in existing instruments refers to public policy considerations at the law of the jurisdiction of the forum, which indeed have relevance in the CBDC context. The expert, however, expressed that there is a second dimension of public policy considerations that emanate from the jurisdiction of the issuer of the CBDC given the public policy nature of an instrument that equates to a legal tender currency or at least a means of payment that has a particular enhanced status. The expert opined that there may be a need for the EG to see which of the public policy considerations listed fall in the first and the second dimensions. As to the third dimension, the expert explained that to the extent that the CBDC is relying on underlying payments infrastructure, there are also considerations around the law that are needed to be applicable for the supporting infrastructure for systemic risk considerations. The expert suggested consideration of approaches in the Settlement Finality Directive (Directive 98/26/EC), the UNIDROIT Geneva Securities Convention, and the 2006 HCCH Securities Convention.

47 An expert added that the public policy provision in a PIL convention usually permits the judges not to apply the law that should be applicable when it is manifestly contrary to the public policy of the forum. The expert directed the EG to refer to Article VIII, Section 2 of the Articles of Agreement of the International Monetary Fund (IMF Agreement). The expert explained that the EG can consider a similar cooperation clause to allow a judge to consider the public policy considerations of another State.

48 An expert expressed that the scope of Article VIII, Section 2 of the IMF Agreement is quite limited as it is primarily aimed at exchange controls. The expert opined that in the context of PIL conventions, it would be rather unusual to direct the court to enforce the laws of the issuer of the CBDC. Rather, the ordinary scope of public policy clauses is that the forum state should only ignore the provisions of the relevant applicable law to the extent that these are manifestly contrary to public policy in the forum state. Another expert noted that there must be a cooperation clause because the issuer of a CBDC must be informed of any dispute concerning the CBDC as the dispute would impact the way the CBDC is operated.

49 An expert suggested using concrete examples to understand the situation where PIL rules should be applied. The expert shared an example where a transfer of CBDC from one country to another violates the public policy of the receiving country because of data privacy considerations. Another expert raised a question as to whether there would be instances where an issuer would need to consider data falling under a confidentiality clause.

50 **For purposes of the** explanatory guidance**, the EG agreed to:**

a. **Highlight the importance of, and distinctions between, provisions on public policy considerations and overriding mandatory rules;**

b. **Make the list of public policy considerations into a bulleted list;**

c. **Remove financial inclusion and sustainability as public policy considerations; and**

d. **Collapse the list into smaller categories, with the following preliminary classifications:**

   i. **Sovereignty and *lex monetae*;**

   ii. **Financial stability, monetary policy, payment systems; and**

iii. **Data protection, privacy, data security**.

51 **For the long-term output in the form of an instrument, the EG agreed to include a provision on a cooperation mechanism.**

VIII. Applicable Law

52 The EG discussed characterisation as the first step in the PIL analysis, and noted that there were two possible models to follow in the context of CBDCs. One method was to take an approach based on the functions and features of CBDCs, and another method to characterise according to traditional approaches such as contractual matters or proprietary matters. The EG then discussed the objective connecting factors that could be relevant to CBDCs. The EG considered the list contained in paragraph 60 of the Issues Paper, setting out CBDC activities that may give rise to claims with respect to PIL matters.

53 Experts noted that, apart from matters which are left to sovereign decisions (legal tender status, issuance, discharge), the function or purpose of the CBDC should be used for connecting factors. The questions (b) and (c) of this section were noted for removal. With respect to paragraph 60 of the Issues Paper, experts were generally in agreement that approaching characterisation in terms of the listed CBDC activities was a sensible approach.

54 One expert noted that, in the case of the Digital Euro, a measure of control over cross-border functionality was implemented through the requirements of reciprocity. States outside the Eurozone would need to adopt national legislation to ensure rules and standards to conform with Digital Euro. Intermediaries are also supervised and overseen in this way in order to distribute the Digital Euro in other jurisdictions.

55 Experts noted that descriptions of activities and functions also appear in the 2006 HCCH Securities Convention, which clarify the scope of the convention for the applicable law rules. Experts further noted that such an approach could be contrasted with the UNIDROIT PDAPL, which notes up-front that it determines the applicable law to proprietary issues, without listing what those issues are.

56 It was noted that Articles 85 and 86 of the UNCITRAL MLST structure the PIL rules first according to security rights in tangible assets and to security rights in intangible assets, and further specify that the scope of the applicable law is for the creation, effectiveness against third parties, and priority of the security rights. One expert noted that exclusions could be applied to limit the application of frameworks such as the MLST to CBDCs, given their unique characteristics.

57 The experts discussed the relevance of intermediaries to the applicable law, and discussed the types of operations that intermediaries might handle, such as fulfilling the roles of a bank or a broker. Experts suggested that more information was needed about the scenarios where an intermediary is connected to a central bank, which may differ from scenarios where an intermediary is dealing with securities accounts. Experts noted that CBDC systems would likely seek to minimise conflict by centralising operations to the extent possible. It was acknowledged, however, that additional actors such as intermediaries would likely participate in the distribution model of CBDCs, even where reciprocity arrangements were used to harmonise cross-border frameworks for a CBDC. In such a scenario, the applicable law rule of the 2006 HCCH Securities Convention and similar rules such as the place of the relevant intermediary (PRIMA) were suggested; experts noted that the applicability of such rules to digital assets was under discussion.

58 **The EG agreed that the following matters would thus be addressed in the** explanatory guidance**:**

a. **Concrete examples of the functions or activities that could be performed with a CBDC, and the possible connecting factors corresponding to each;**

b. **The possible roles of intermediaries;**

c. **The possibility of using connecting factors, scoping articles, or exclusions from the UNCITRAL MLST and the HCCH 2006 Securities Convention.**

IX. Jurisdiction issues

59 The EG discussed the matter of jurisdiction, noting that at the initial level of analysis, the parties (and thus the central bank) would have the first opportunity to choose the forum. At the second level, possible default grounds for jurisdiction would need to be applied in the absence or invalidity of a choice. Finally, at the third level, there may be specialised jurisdiction rules. The EG also discussed the application of public policy considerations if the forum that hears the dispute is not the jurisdiction of the issuing State. The PB reminded the EG that the formal study of jurisdiction at the HCCH is ongoing, and concerns parallel proceedings and other related actions.

60 Experts discussed the application of the party autonomy principle as the first ground for jurisdiction. One expert suggested that a choice of jurisdiction clause could be incorporated into a CBDC itself, but there were practical considerations for how the clause would be made known to users. Other experts discussed the challenges arising from use of the CBDC outside the territory where it is used as legal tender, suggesting that a foreign jurisdiction would have little power or reason to affect decisions of the central bank on the legal nature of its CBDC.

61 In this regard, one expert noted that the Brussels I framework has rules for exclusive jurisdiction on specific issues like real estate and the validity of an intellectual property right, as these can only be ruled upon by a specific jurisdiction among EU Member States—the strong connection to sovereignty can also be observed with CBDCs. The expert concluded that the scope of this exclusive jurisdiction should be examined.

62 Experts discussed whether the type of currency used in a transaction could be used as a ground of jurisdiction, whether the currency was physical bank notes or commercial bank money denominated in the same unit of account. Experts did not identify any such instances, except for situations where banks outsides the US have transacted in US dollars, and public authorities have concluded that nothing of the transaction occurred in the US but that there is a link to the US through the usage of the dollar. The PB asked whether the result may be different if the matter was characterised as a proprietary matter, a tort, or as unjust enrichment.

63 Experts discussed the following matters as possible grounds for jurisdiction, including:

a. Consumer protection perspectives, as some cases of digital assets have used the consumer's location as a ground of jurisdiction;

b. Tort claims against the central bank where there is a breach of the reasonable duty of care to construct and maintain a safe CBDC;

c. If CBDC is a digital asset, the notion of control has been applied in various sources for determining the applicable law, and may be considered as a ground of jurisdiction, which will probably coincide with the domicile of one of the parties;

d. The situs of the account, which may raise questions about where the digital asset is situated—whether in the "books" of the central bank or in the token representing a CBDC, or other place;

e. The nationality of the plaintiff was identified as a ground of jurisdiction that had been controversial in other settings;

f. As to the matter of specialised rules, it would be important to understand the types of disputes that may arise—to that end one expert suggested to check for examples of types of disputes that have been noted by central banks, in order to understand the expectations of possible litigation;

g. The location of a payment services provider, noting that the location of actual processing may be challenging to determine.

X. Contractual aspects

64 As discussed in the past meetings in 2024, it was suggested that the consideration of contractual aspects should be narrowed to: (1) the extent to which there should be limitations to party autonomy in relation to CBDCs, and (2) whether the HCCH 2015 Principles on Choice of Law in International Commercial Contracts should apply. The EG generally discussed what PIL considerations should arise in contractual matters, whether involving CBDCs as payment or as the subject matter of the contract.

65 Experts were in agreement as to the applicability of the HCCH 2015 Principles, so long as the matter does not concern central bank or public policy considerations. In respect of situations where there is holding of CBDCs by individuals, there should also be acknowledgement of the possible difference in negotiating and/or contracting powers, such as consumer protection issues.

66 As to when there is no valid choice of law, one expert expressed the view that traditional conflict rules should apply, depending on the type of contract. The HCCH 1955 International Sales of Goods Convention was taken as model for reference and discussion.

67 **For the** explanatory guidance**, the EG took the view that the section on contractual aspects should be incorporated into other sections such as characterisation, applicable law and jurisdiction.**

XI. Cross-border restructuring and insolvency

68 The EG discussed whether unique considerations relating to applicable law and jurisdiction arise where CBDCs are involved in cross-border restructuring and insolvency proceedings.

69 An expert shared an example of a debtor who becomes insolvent, and needs to pay a creditor, while having an account with CBDCs. If the creditors do not have accounts that can accept CBDCs, the insolvency court would have to order an intermediary to convert the CBDCs into some other form that would be acceptable to the creditors. The expert noted that issues on conversion may arise if the law governing the insolvency proceedings does not recognise CBDCs.

70 Another expert raised concern about para. 75 or the Issues Paper, which is taken from para. 21 of the Report of the 1st working meeting, because it could be interpreted to allude to a specific treatment of wCBDCs in insolvency, distinct from other forms of financial collateral. The expert noted a tension between UNCITRAL's work on insolvency and the work of other fora on enhancing financial collateral. Taking into consideration the UNIDROIT Geneva Securities Convention and its provisions around financial collateral, the expert noted that to the extent that one has accepted the insolvency remoteness of certain types of financial collateral including cash, the same also extends to CBDCs if they are equivalent to cash. The expert emphasised the importance of not weakening certain privileged types of financial transactions just because the subject of collateral is no longer cash but is CBDCs.

71 In response, an expert opined that given that most CBDCs will be subject to holding limits, the practical importance of collateralising rCBDCs would be minimal. A delegate from China pointed out that e-CNY has no limits once a user provides certain information. As of now, foreigners have a limit to the value of e-CNY they can hold while Chinese citizens can hold unlimited value.

72 **The EG agreed to amend para. 75 of the Issues Paper and to include insolvency matters in the** explanatory guidance.

XII. Conclusion

73 As noted above in Section I, the EG agreed on two goals for its deliverable: the initial aim will be towards an explanatory soft law product, and its long term aim will be towards a hard law instrument, where the explanatory guidance does not preclude further work on a hard law instrument.

74 Additional conclusions relevant to the scope of the EG's work, the content of the explanatory guidance or the hard law instrument, or other action items for the EG or the PB are summarised here:

75 **The EG agreed to discontinue the bifurcation of work and to consider both rCBDCs and wCBDCs in its work.** (para. 10)

a. **The EG agreed to retain the current list of exclusions, with modifications to note that multi-asset systems are not excluded but that the EG agreed to limited consideration and further monitoring of the issue.** (para. 12)

b. *Modifications proposed for the EG's taxonomy* (para. 13 et seq.)

c. **Experts suggested that a list of illustrations of simple transactions would be helpful, and may include movable property, immovable property, service, credit, securities and setting off arrangements. This examination may consider whether PIL rules concerning the use of currency exist, and if such rules provide guidance on how they may affect the applicable law to a specific transaction.** (para. 27)

d. **The PB requested experts to provide any information that was publicly available regarding the status of national CBDC projects, with a view to including such information in the EG's** explanatory guidance**.** (para. 29)

e. **The EG agreed to include the functions, activities, and duties of intermediaries in the Issues Paper in the** explanatory guidance **and create a matrix in relation to the obligations of the intermediaries involved.** (para. 32)

f. **The EG agreed that there is a possible need for concentration of international jurisdiction to avoid fragmentation of jurisprudence when it comes to a CBDC.** (para. 37)

g. **The EG agreed to keep the current list of actors and their categories in the Issues Paper. The EG requested that the PB check the terms in the list to see whether they have been used in the PIL context. The EG agreed to introduce a definition of these terms in the** explanatory guidance**.** (para. 38)

h. **For purposes of the** explanatory guidance**, the EG agreed to:**

i. **Highlight the importance of, and distinctions between, provisions on public policy considerations and overriding mandatory rules;**

ii. **Make the list of public policy considerations into a bulleted list;**

iii. **Remove financial inclusion and sustainability as public policy considerations; and**

iv. **Collapse the list into smaller categories, with the following preliminary classifications:**

1. **Sovereignty and *lex monetae*;**

2. **Financial stability, monetary policy, payment systems; and**

3. **Data protection, privacy, data security**. (para. 50)

i. **For the long-term output in the form of an instrument, the EG agreed to include a provision on a cooperation mechanism.** (para. 51)

j. **The EG agreed that the following matters would thus be addressed in the** explanatory guidance**:**

  i. **Concrete examples of the functions or activities that could be performed with a CBDC, and the possible connecting factors corresponding to each;**

  ii. **The possible roles of intermediaries;**

  iii. **The possibility of using connecting factors, scoping articles, or exclusions from the UNCITRAL MLST and the HCCH 2006 Securities Convention.** (para. 58)

k. *Further consideration of jurisdiction issues and possible grounds for jurisdiction* (para. 59 et seq.)

l. **For the** explanatory guidance**, the EG took the view that the section on contractual aspects should be incorporated into other sections such as characterisation, applicable law and jurisdiction.** (para. 67)

m. **The EG agreed to amend para. 75 of the Issues Paper and to include insolvency matters in the** explanatory guidance. (para. 72)

76 The next meeting of the EG on CBDCs is scheduled to take place on **17-19 September 2025**. In accordance with the request from the Council on General Affairs and Policy for the meeting to preferably take place in person, the PB encourages delegates and Observers to make all possible efforts to travel to The Hague for this meeting. As this meeting will likely involve reviewing a draft version of the explanatory guidance, the attendance of delegates in person would facilitate consensus-building on important decisions relating to the text and ensure that the widest possible range of perspectives are represented.

ANEXO II

List of participants - HCCH Experts' Group on Central Bank Digital Currencies (CBDCs)

Third meeting - 24-26 March 2025

Family name(s)	Name(s)	State or Organisation	Position	Status of attendance (online/on site)
DOSANI	Muhammad	Australia	Assistant Director, Digital Asset and Crypto Unit, Treasury	Online
BERTINI PASQUOT POLIDO	Fabrício	Brazil	Comparative Legal Studies & New Technologies, University of Minas Gerais - UFMG	Online
CENTENARO HELLWIG	Guilherme	Brazil	Central Bank Attorney	Online
DE OLIVEIRA ROSA	Marcus Paulus	Brazil	Central Bank Attorney	Online
LYON	Francisca	Chile	Senior Lawyer, Legal Department, Central Bank of Chile	Online
CAI	Mingyang	China	Legal and Compliance Division of Digital Currency Institute of the People's Bank of China	Online
LIANG	Wenwen	China	Associate Professor, Wuhan University	Online
YING	Zhang	China	Judge of the Second Civil Division, Supreme People’s Court	Online
RUYUAN	Zheng	China	Attaché, Department of Treaty and Law of the Ministry of Foreign Affairs	Online
CHUNG	Tim	China Hong Kong SAR	Chief Counsel (Advisory), Office of the General Counsel, Hong Kong SAR Monetary Authority	Online
PAPAPASCHALIS	Panagiotis	European Union	Principal Legal Counsel [ECB]	Online
VONDRACEK	Ondrej	European Union	Legislative Officer [DG Justice]	Online

ŽVELC	Rok	European Union	Legislative Officer [DG FISMA]	Online
KLEINER	Caroline	France	Professeure de droit privé / UNIVERSITÉ PARIS CITÉ - FACULTÉ DE DROIT ÉCONOMIE GESTION	Online
SINAI LIVYATAN	Michal	Israel	Assistant Legal Counsel, Legal Department, Bank of Israel	Online
MOLDOVAN	Cristina	Romania	Expert from the Romanian National Bank	Online
LIM	Delphia	Singapore	Director (International Legal Division), Ministry of Law	Online
YUEN	Paul	Singapore	General Counsel, Monetary Authority of Singapore	Online
ZHAO FENG	Quek	Singapore	Senior Legal Counsel, Monetary Authority of Singapore	Online
BASCHUNG	Manuel	Switzerland	Senior Legal Counsel, Swiss National Bank	Online
BEAVES	Antony	UK	Senior Legal Counsel, Bank of England	Online
RISNESS	John	UK	Legal Counsel Bank of England	Online
COHEN	Neil	USA	Professor of Law at Brooklyn Law School	Online
PROSSER	Sarah	USA	Assistant Legal Adviser at the Department of State's Office of the Legal Adviser	Online
CHEYTANOVA	Dessi	BIS	General Counsel	Online
DIMITRIJEVIC	Marko	ELI	ELI member	Online
LOEBER	Klaus	IBA	Member of the IBA Banking & Financial Law Committee Advisory Board	Online
BECHARA	Marianne	International Monetary Fund		Online

DUMITRESCU PASECINIC	Adrian Dorel	International Monetary Fund		Online
GOH ESCOLAR	Gérardine	HCCH	Deputy Secretary General of the HCCH	In person
CHENG	Harry	HCCH	Legal Officer	In person
SALINAS PEIXOTO	Raquel	HCCH	Legal Officer	In person
CHIANG	Melinda	HCCH	Secondee (Hong Kong SAR)	In person
VILLANUEVA	Samantha	HCCH	Intern	In person

ANEXO III

EXPERTS' GROUP ON CBDCs

AIDE-MÉMOIRE OF THE FOURTH MEETING

SEPTEMBER 2025

Aide-mémoire of the fourth meeting of the Experts' Group on Central Bank Digital Currencies prepared by the Chair

I. Election of the Chair

1 The Permanent Bureau (PB) opened the meeting. The Experts' Group on Central Bank Digital Currencies (EG on CBDCs) by consensus elected as its chair Professor Caroline Kleiner, a delegate representing France.

2 The EG adopted the draft Agenda with some minor updates.

II. Discussion of the Explanatory Guidance (v.0)

A. Overarching Matters

3 The EG commenced discussion of the draft text of the Explanatory Guidance (v.0), which had been circulated by the PB for comments ahead of the meeting. The EG agreed on the continued relevance of having an Explanatory Guidance on the topic, and to continue work towards the finalisation of the text.

4 The EG agreed that it would be helpful to provide concrete examples and illustrations supporting the principles and concepts addressed in the Explanatory Guidance, and to make efforts to review and expand examples already provided in the document.

5 The EG noted that some of the PIL issues affecting CBDCs may be similar to the PIL issues that affect private digital currencies and cross-border payments systems; in addition to considering analogies between CBDCs and other forms of currency, there could be further examination of how the Explanatory Guidance aligns with cases and principles underlying private digital currencies (such as relevant contractual clauses and connecting factors). The EG discussed the scope of its mandate in relation to the work of the EG on Digital Tokens, and agreed that the PB would ensure alignment and non-overlap between the work of both EGs.

6 The EG questioned whether there are sovereign immunities for the actions of the central bank with respect to the issuance of currency and oversight of payment channels used by CBDCs; EG members agreed to provide information supporting this inquiry.

7 The EG recalled and confirmed its decision not to bifurcate its work between wholesale CBDCs (wCBDCs) and retail CBDCs (rCBDCs), but noted that some PIL considerations may merit a wCBDC- or rCBDC-focused discussion instead of a holistic discussion covering the two.

8 The EG suggested development of a new section focusing on PIL situations that may arise with the use of CBDCs. Such a section would include the existing discussion of cross-currency conversion of CBDCs.

B. Introduction and Taxonomies

9 The EG reviewed the proposed definitions and taxonomies drawn from the Bank for International Settlements (BIS). The EG decided to include a description of the key models of CBDCs, such as token-based and account-based CBDCs, one-tier and two-tier systems, wholesale and retail, online

and offline, and on-chain and off-chain. The EG discussed its preference between the terms "platform", "system" and "infrastructure". The EG decided to distinguish between the terms "platform", "system" and "infrastructure" in the text of the Explanatory Guidance.

C. Core Functions of CBDCs

10 The EG decided to retain its list of core functions of CBDCs, describing these core functions as ones that CBDCs potentially may have, without referring to "features", and to describe the list as non-exhaustive. Further detail would be provided on whether a function pertained to rCBDCs or wCBDCs. The EG agreed to provide practical examples that illustrate core functions of CBDCs and any associated PIL challenges. Examples already written in the Explanatory Guidance should be revised to focus on the specific PIL questions on applicable law and jurisdiction.

D. Characterisation

11 The EG acknowledged the important role of characterisation of the matter in PIL in determining the applicable law, and agreed to include a paragraph illustrating the characterisation step and its distinction from classification or grounds for jurisdiction. The EG agreed that a separate heading may not be needed for characterisation, and that the implications of specific characterisations (such as contractual aspects of CBDCs) could be addressed under other sections of the Explanatory Guidance.

E. Actors and Intermediaries

12 The EG suggested that the lists of actors and intermediaries could be re-organised in order to highlight those that are most significant for PIL matters, for example, by providing illustrations of relationships that give rise to PIL questions.

F. Public Policy Exceptions and Overriding Mandatory Rules

13 Participants suggested that it would be helpful to provide illustrations for each of the different exceptions noted in the Explanatory Guidance (such as protections against money laundering), also bearing in mind that the Explanatory Guidance does not seek to provide an exhaustive list of public policy considerations relevant to CBDCs.

14 It would also be helpful to clarify the scope of the *lex monetae*, so that it is clearer which matters fall under public policy exceptions and which matters are issues of sovereignty of the issuing State. Further exploration of analogies and examples with other forms of currency would help support the discussion, as this should clarify how CBDCs differ and are subject to different public policy exceptions.

15 Participants discussed the possible analogy to the Articles of Agreement of the International Monetary Fund (IMF) regarding exchange controls, and the issue of a cross-border cooperation mechanism.

G. Applicable Law

16 The EG discussed the scope of matters that should be covered by the applicable law. Participants noted that the concept of the "holding" of CBDCs would need to also include the notion of ownership as the legal understanding of the term "holding" includes ownership in many jurisdictions.

17 Participants discussed comparisons and analogies to the UNCITRAL Model Law on Secured Transactions, which illustrates how rules may be developed for the law applicable to a security

interest in tangible and intangible assets. Participants noted that, following this example, CBDC-specific rules could be developed.

18 The EG agreed that the intermediation contemplated for CBDCs may be different from the intermediation of interests in securities, thus, analogising to the rules of the HCCH 2006 Securities Convention may not always be on point. The EG agreed that while it would be best to align the terms used and the strands of discussion in its work with the slate of relevant current international instruments, considerations relating to CBDCs give rise to issues that require different definitions of existing terminology, the use of new terminology, and the inclusion of different points of consideration in its work and any deliverables that it may produce.

19 The EG suggested that the relevant applicable law in a CBDC would either arise from or be expressed by the jurisdiction of the issuing central bank. However, it is likely that the applicable law would not be expressly indicated on the CBDC itself or within a contractual clause with the central bank as a party. Contractual arrangements would exist between the central bank and intermediaries, though intermediation does not alter the fundamental nature of the CBDC as a claim against, or liability of, the central bank.

20 The EG agreed that the technology neutrality principle should be acknowledged, as the applicable law should not be affected by developments in the underlying technology of CBDCs.

21 For situations where the principle of party autonomy allows users to choose the governing law, the EG agreed that clarity is needed on which aspects of CBDCs and their use can be governed by law other than that chosen by the central bank.

H. Jurisdiction

22 The EG considered the question whether, should jurisdiction appear to be the priority issue of the Explanatory Guidance, the discussion of jurisdiction could precede the discussion of applicable law. It was decided that the structure of the text would be addressed after the EG had had the opportunity to consider the next iteration of the draft Explanatory Guide.

23 Participants proposed studying how a rule of exclusive jurisdiction may function in practice, also taking into account other work at the HCCH, including at the HCCH Working Group on Jurisdiction. The EG was asked to identify existing rules for exclusive jurisdiction regarding claims involving the central bank.

24 The EG reviewed the lists of possible grounds for jurisdiction and agreed to maintain an open-ended list which does not prescribe any particular approach.

25 On the matter of the "place of control" as a ground for jurisdiction, participants noted that several jurisdictions involved in the issuance of CBDCs do not utilise a legal definition of "control" in relation to their CBDC, and also that the definition of "control" varies among different sources. The EG agreed, if it decided to use the term "control" in the Explanatory Guidance, to define the term used, bearing in mind that the activity being carried out with a CBDC ultimately may not correspond to descriptions currently in use among different sources.

26 The EG agreed on including a discussion of interim measures, for example, whether a court would be able to compel a foreign central bank to prevent a transaction from occurring.

I. Relevance of the Conflict of Laws Provision in the 1992 UNCITRAL Model Law of International Credit Transfers

27 The EG discussed the matter of the use of CBDCs in the discharge of payments. In this regard, the EG considered the 1992 UNCITRAL Model Law on International Credit Transfers, in particular Article Y. Conflict of Laws (footnoted to Chapter I. General Provisions), which provides the conflict of laws

rule governing the rights and obligations arising out of a payment order. The EG noted that Article Y may serve as a starting point for the consideration of the EG, but that other PIL considerations specific to CBDCs should be included if an applicable law rule relating to CBDCs is intended to be drafted by this EG.

J. Iteration of Issues Paper

28 The PB outlined the next steps regarding the EG's deliverables and future work. The Explanatory Guidance will be iterated and circulated again to the EG for its comments. The PB noted that the final text of the Explanatory Guidance, after its approval by the members of the EG, will be circulated to HCCH Members and submitted to CGAP for review and approval prior to publication.

29 Should CGAP approve the publication of the Explanatory Guidance, the EG agreed that the goal of its second phase of the work is to continue discussion of the desirability and feasibility of a future instrument and to provide a recommendation on its desirability and feasibility to CGAP. In line with the decision taken at its third meeting, the EG noted that the Issues Paper will be re-iterated to focus on this second phase of its work.

III. Next Steps

30 Members of the EG were requested to inform the PB and the Chair if they wished to join the "Friends of the Chair" sub-group. The Chair, Friends of the Chair, and PB will iterate the Explanatory Guidance and circulate the new version (v.1) for comments. The EG will continue to discuss the text of the Explanatory Guidance in its 2026 meetings, with a view towards its finalisation, should CGAP decide to grant the EG a continuation of its mandate at CGAP's 2026 meeting.

31 The PB will circulate a questionnaire to HCCH Members through a Focused Circular. Observers admitted to the EG on CBDCs will also be able to respond. Upon receiving the approach from the PB, the International Bar Association (IBA) agreed to circulate the same questionnaire to practitioners. The list of questions to be included in the questionnaire was developed by the PB and reviewed by the EG (provided below in Section IV).

32 The EG agreed that the PB would develop a first draft of a desirability and feasibility study of a possible future instrument, including issues in relation to the use of CBDCs in payment systems, for its review and discussion at its next meetings.

33 Such a study would focus on the use of CBDCs in payment systems, and consider where possible that the PIL issues raised are in alignment with those arising in relation to the use of other digital currencies in payment systems. The study would be reviewed by this EG and then would be shared by the PB with the Experts' Group on Digital Tokens in order to ensure alignment and non-overlap between the work of both EGs.

IV. Questionnaire

34 The following are the questions to be asked in the questionnaire that will be circulated as described in para. 31 above.

1. Is your jurisdiction developing or contributing to the development of a CBDC,[1] or participating in a cross-border CBDC project? If yes, please answer the following sub-questions:

    i. Is your jurisdiction exploring or developing a wholesale CBDC (wCBDC) or a retail CBDC (rCBDC)?

[1] "CBDC" for the purposes of this Questionnaire refers to both retail CBDCs and wholesale CBDCs.

ii. Does the CBDC contemplate holding by non-residents or foreign nationals? Can the CBDC be used outside your jurisdiction?

iii. Is there a local payment system that contemplates the inclusion/use of CBDCs?

iv. Is it anticipated that any part of the CBDC platform will accommodate or hold more than one type of CBDC simultaneously (*i.e.* CBDCs issued by different jurisdictions) Will a user be able to hold more than one type of CBDC?

v. Will the CBDC be subject to holding or transaction limits?

vi. Will there be any unique institution or platform to be developed to issue/transfer/hold the CBDC (*i.e.*, one not already existing for the circulation of other forms of currency or financial instruments)?

vii. Is it anticipated that the CBDC platform will involve any intermediaries? If so, what possible roles are being anticipated for these intermediaries?

2. What is the scope of the *lex monetae* in your jurisdiction as it may relate to CBDCs; *i.e.* what specific matters or operations are included in the *lex monetae*?

3. Has the monetary law of your jurisdiction been changed to accommodate the development of CBDCs?

4. Does your jurisdiction have conflict of law rules for currency that may apply to CBDCs? If your answer to this question is yes, please provide the relevant rules. Is it anticipated that the jurisdiction's conflict of law rules will be augmented to reflect the development of CBDCs?

5. Are there sovereign immunities for the actions of the central bank with respect to the issuance of currency and the oversight on its payment system? Is it anticipated that these immunities may also apply to the issuance of CBDCs and the oversight on its platform? If your answer to this question is yes, please provide the relevant provisions.

6. Where the relevant parties have not agreed on the forum competent to hear any disputes that may arise (whether contractual or otherwise), are there default rules for exclusive jurisdiction for claims involving the central bank? In the absence of a specific ground of jurisdiction, do the traditional grounds of jurisdiction apply? If your answer to this question is yes, please provide the relevant rules. If your answer to this question is no, please explain what grounds of jurisdiction would apply.

   i. Under local law, are there circumstances in which it would be possible to obtain an injunction against a foreign central bank? Under what circumstances?

   ii. Does the central bank have specialised rules or policies to prepare for anticipated cross border litigation? What matters are addressed under these policies?

7. Along what lines would your jurisdiction distinguish a foreign CBDC from a digital asset, financial instrument, etc.? Is there an intention to consider a foreign CBDC as the legal equivalent to the fiat currency of that issuing State?

V. Conclusions: Recommendations from the EG

35 The EG invites CGAP to take note of the report and *Aide-mémoire* contained in the Annexes of the Preliminary Document that will be submitted to CGAP.

36 In light of the progress made in its work, the EG recommends as follows:

- that CGAP approve the continuation of the EG's work, including two further meetings, as well as intersessional work, in 2026 prior to CGAP's meeting in 2027, during which the text

of the draft Explanatory Guidance will continue to be discussed with a view towards its finalisation; and

- that CGAP approve the continuation of the EG's work to study the desirability and feasibility of a possible future instrument relating to the applicable law and jurisdiction issues raised by the cross-border use and transfers of CBDC.

ANEXO IV

List of participants - HCCH Experts' Group on Central Bank Digital Currencies (CBDCs)

Fourth meeting - 17-19 September 2025

Family name(s)	Name(s)	State or Organisation	Position	Status of attendance (online/on site)
DOSANI	Muhammad	Australia	Assistant Director, Digital Asset and Crypto Unit, Treasury	online
BERTINI PASQUOT POLIDO	Fabrício	Brazil	Associate Professor of Private International Law, Transnational and Comparative Legal Studies & New Technologies, University of Minas Gerais - UFMG	online
CENTENARO HELLWIG	Guilherme	Brazil	Central Bank Attorney	online
LYON	Francisca	Chile	Senior Lawyer, Legal Department, Central Bank of Chile	online
LIANG	Wenwen	China	Associate Professor, Wuhan University	online
LYU	Yuan	China	Innovation Division of Digital Currency Institute of the People's Bank of China	online
ZHANG	Ying	China	Judge of the Second Civil Division, Supreme People's Court	online
XIONG	Wenqin	China	Deputy Division Direcior, Department of Treaty and Law of the Ministry of Foreign Affairs	online
LI	Yutong	China	Attaché, Department of Treaty and Law, MFA	online
CAI	Mingyang	China	Legal and Compliance Division of Digital Currency Institute of the People's Bank of China	online
SUN	Mingjuan	China	Supreme People's Court	online
CHUNG	Tim	China Hong Kong SAR	Chief Counsel (Advisory), Office of the General Counsel, Hong Kong SAR Monetary Authority	online
KOU	Ka Ian	China Macao SAR	Legal Adviser, Monetary Authority, Macao SAR	online

PAPAPASCHALIS	Panagiotis	European Union	Principal Legal Counsel [ECB]	in-person
VONDRACEK	Ondrej	European Union	Legislative Officer [DG Justice]	online
KLEINER	Caroline	France	Professeure de droit privé / UNIVERSITÉ PARIS CITÉ - FACULTÉ DE DROIT ÉCONOMIE GESTION	in-person
SINAI LIVYATAN	Michal	Israel	Assistant Legal Counsel, Legal Department, Bank of Israel	online
DE FRANCESCHI	Alberto	Italy	Full Professor of Private Law, Digital Law and Environmental Sustainability at the University of Ferrara	online
PODNIEKS	Indulis	Latvia	Senior Expert of Credit Institution and Payment Services Policy Division of Financial Market Policy Department	online
ÁLVAREZ-RENDON	Martha Angélica	Mexico	Director of International Law II, Ministry of Foreign Affairs	online
CAMP MEJAN CARRER	Luis Manuel	Mexico	External Adviser of Ministry of Foreign Affairs on Private International Law	online
BAEK	Mooyeol	Republic of Korea	Bank of Korea - Office of Legal Affairs	in-person
SEO	Jayoung	Republic of Korea	Bank of Korea - Financial Legal Affairs Team	in-person
PARK	Jisoon	Republic of Korea	Bank of Korea - Digital Currency Cooperation Team, Office of Digital Currency	in-person
MOLDOVAN	Cristina	Romania	Expert from the Romanian National Bank	in-person
LIM	Delphia	Singapore	Director (International Legal Division), Ministry of Law	online
SEOW	Ai Lin	Singapore	Deputy Director, International Legal Division, Ministry of Law	online
YUEN	Paul	Singapore	General Counsel, Monetary Authority of Singapore	online
QUEK	Zhao Feng	Singapore	Senior Legal Counsel, Monetary Authority of Singapore	online
BASCHUNG	Manuel	Switzerland	Co-Head of Private International Law Unit (Jobsharing) - Federal Office of Justice FOJ	in-person
BEAVES	Antony	UK	Senior Legal Counsel, Bank of England	online

RISNESS	John	UK	Legal Counsel Bank of England	online
VINCENT	Keith	UK	Senior Lawyer, HM Treasury	online
COHEN	Neil	USA	Professor of Law at Brooklyn Law School	online
FOX	Anna	USA	Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State	online
NEOH	Anthony	AAIL	Co-Chairman	online
CHEYTANOVA	Dessi	BIS	General Counsel	online
DIMITRIJEVIC	Marko	ELI	ELI member	online
BECHARA	Marianne	International Monetary Fund		online
DUMITRESCU PASECINIC	Adrian Dorel	International Monetary Fund		online
WERNER	Peter	ISDA	Senior Counsel	online
PATERSON	Will	The World Bank Group	Senior Financial Sector Specialist	online
HAENTJENS	Matthias	UNIDROIT	Chair of Private Law University of Leiden	in-person
CASTELLANO	Giuliano	UNIDROIT	University of Hong Kong	online
GOH ESCOLAR	Gérardine	HCCH	Deputy Secretary General of the HCCH	in-person
CHENG	Harry	HCCH	Legal Officer	in-person
SALINAS PEIXOTO	Raquel	HCCH	Legal Officer	in-person
HO	Wendy	HCCH	Secondee (Hong Kong SAR)	in-person
KANG	Jisung	HCCH	Secondee (Korea)	in-person

AHEMAI	Dilidaer	HCCH	Intern	in-person
WEN	Ying	HCCH	Intern	in-person