

**Resolution of Advice and Consent to Ratification  
of the United Nations Convention on the As-  
signment of Receivables in International  
Trade, done at New York on December 12,  
2001, and signed by the United States on De-  
cember 30, 2003**

1        *Resolved, (two-thirds of the Senators present concur-*  
2 *ring therein),*

3 **SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO**  
4 **UNDERSTANDINGS AND DECLARATIONS.**

5        The Senate advises and consents to the ratification  
6 of the United Nations Convention on the Assignment of  
7 Receivables in International Trade, done at New York on  
8 December 12, 2001, and signed by the United States on  
9 December 30, 2003 (the “Convention”) (Treaty Doc.  
10 114–7), subject to the understandings of section 2 and  
11 the declarations of sections 3 and 4.

12 **SEC. 2. UNDERSTANDINGS.**

13        The Senate’s advice and consent under section 1 is  
14 subject to the following understandings, which shall be in-  
15 cluded in the instrument of ratification:

16            (1) It is the understanding of the United States  
17        that paragraph (2)(e) of Article 4 excludes from the  
18        scope of the Convention the assignment of—

1 (A) receivables that are securities, regard-  
2 less of whether such securities are held with an  
3 intermediary; and

4 (B) receivables that are not securities but  
5 are financial assets or instruments, if such fi-  
6 nancial assets or instruments are held with an  
7 intermediary.

8 (2) It is the understanding of the United States  
9 that the phrase “that place where the central admin-  
10 istration of the assignor or the assignee is exercised”  
11 as used in Articles 5(h) and 36 of the Convention  
12 has a meaning equivalent to the phrase “that place  
13 where the chief executive office of the assignor or as-  
14 signee is located”.

15 (3) It is the understanding of the United States  
16 that the reference in the definition of “financial con-  
17 tract” in Article 5(k) to “any other transaction simi-  
18 lar to any transaction referred to above entered into  
19 in financial markets” is intended to include trans-  
20 actions that are or become the subject of recurrent  
21 dealings in financial markets and under which pay-  
22 ment rights are determined by reference to—

23 (A) underlying asset classes; or

24 (B) quantitative measures of economic or  
25 financial risk or value associated with an occur-

1           rence or contingency. Examples are trans-  
2           actions under which payment rights are deter-  
3           mined by reference to weather statistics, freight  
4           rates, emissions allowances, or economic statis-  
5           tics.

6           (4) It is the understanding of the United States  
7           that because the Convention applies only to “receiv-  
8           ables,” which are defined in Article 2(a) as contrac-  
9           tual rights to payment of a monetary sum, the Con-  
10          vention does not apply to other rights of a party to  
11          a license of intellectual property or an assignment or  
12          other transfer of an interest in intellectual property  
13          or other types of interests that are not a contractual  
14          right to payment of a monetary sum.

15          (5) The United States understands that, with  
16          respect to Article 24 of the Convention, the Article  
17          requires a Contracting State to provide a certain  
18          minimum level of rights to an assignee with respect  
19          to proceeds but that it does not prohibit Contracting  
20          States from providing additional rights in such pro-  
21          ceeds to such an assignee.

1 **SEC. 3. DECLARATIONS TO BE INCLUDED IN THE INSTRU-**  
2 **MENT OF RATIFICATION.**

3 The Senate's advice and consent under section 1 is  
4 subject to the following declarations, which shall be in-  
5 cluded in the instrument of ratification:

6 (1) Pursuant to Article 23(3), the United  
7 States declares that, in an insolvency proceeding of  
8 the assignor, the insolvency laws of the United  
9 States or its territorial units may under some cir-  
10 cumstances—

11 (A) result in priority over the rights of an  
12 assignee being given to a lender extending cred-  
13 it to the insolvency estate, or to an insolvency  
14 administrator that expends funds of the insol-  
15 vency estate for the preservation of the assigned  
16 receivables (see, for example, title 11 of the  
17 United States Code, sections 364(d) and  
18 506(c)); or

19 (B) subject the assignment of receivables  
20 to avoidance rules, such as those dealing with  
21 preferences, undervalued transactions and  
22 transactions intended to defeat, delay, or hinder  
23 creditors of the assignor.

24 (2) Pursuant to Article 36 of the Convention,  
25 the United States declares that, with respect to an  
26 assignment of receivables governed by enactments of

1 Article 9 of the Uniform Commercial Code, as  
2 adopted in one of its territorial units, if an assign-  
3 or's location pursuant to Article 5(h) of the Conven-  
4 tion is the United States and, under the location  
5 rules contained in section 9-307 of the Uniform  
6 Commercial Code, as adopted in that territorial unit,  
7 the assignor is located in a territorial unit of the  
8 United States, that territorial unit is the location of  
9 the assignor for purposes of this Convention.

10 (3) Pursuant to Article 37 of the Convention,  
11 the United States declares that any reference in the  
12 Convention to the law of the United States means  
13 the law in force in the territorial unit thereof deter-  
14 mined in accordance with Article 36 and the Article  
15 5(h) definition of location. However, to the extent  
16 under the conflict-of-laws rules in force in that terri-  
17 torial unit a particular matter would be governed by  
18 the law in force in a different territorial unit of the  
19 United States, the reference to "law of the United  
20 States" with respect to that matter is to the law in  
21 force in the different territorial unit. The conflict-of-  
22 laws rules referred to in the preceding sentence refer  
23 primarily to the conflict-of-laws rules in section 9-  
24 301 of the Uniform Commercial Code as enacted in  
25 each State of the United States.

1           (4) Pursuant to Article 39 of the Convention,  
2           the United States declares that it will not be bound  
3           by chapter V of the Convention.

4           (5) Pursuant to Article 40, the United States  
5           declares that the Convention does not affect contrac-  
6           tual anti-assignment provisions where the debtor is  
7           a governmental entity or an entity constituted for a  
8           public purpose in the United States.

9   **SEC. 4. SELF-EXECUTION DECLARATION.**

10          The Senate's advice and consent under section 1 is  
11          subject to the following declaration: This Convention is  
12          self-executing.