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COVER NOTE

from:	Ms. Paraskevi Michou, Director, Civil Justice, DG Justice, the European Commission
date of receipt:	24 April 2012
to:	Mr Ib Hounsgaard Trabjerg, Chairman of the Civil Law Committee (General Affairs), the General Secretariat of the Council of the European Union
Subject:	Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) - Study from the British Institute for International and Comparative Law (BIICL)

Dear Mr. Hounsgaard Trabjerg,

On 17 January 2008, Regulation 593/2008 on the law applicable to contractual obligations (the "Rome I Regulation") was adopted by the European Parliament and the Council; the Regulation entered into application on 17 December 2009.

Article 14 of the Regulation contains uniform conflict-of-law rules for the voluntary assignment and contractual subrogation of claims. However, during the negotiations of the Rome I Regulation in Council and Parliament, it was not possible to reach agreement on the conflict-of-law rule which should govern the effectiveness of an assignment or subrogation of a claim against third parties and the priority of the assigned or subrogated claim over a right of another person. As a result Article 14 is silent on this issue.

Given the importance of the uniform application of the conflict-of-law rules laid down by Union law and the practical significance of the assignment of claims for certain market sectors such as the factoring and securitisation business, the Commission, in Article 27 (2) of the Rome I Regulation, made a commitment to submit a report on the question of the third-party effects of assignment to the European Parliament, the Council and the European Economic and Social Committee.

In preparation of this report, DG Justice commissioned a study from the British Institute for International and Comparative Law (BIICL). The contractor was asked to identify whether there is a need to harmonise choice of law rules governing the third-party effects of assignment and to analyse the legal, economic and financial impacts of possible solutions.

Since the Commission's report on this issue is delayed, I would like to submit the executive summary of the study's final report to the Council for information. The full report of the study is available on the homepage of DG Justice at http://ec.europa.eu/justice/civil/document/index_en.htm

(complimentary close)

(signed) Paraskevi Michou

Enclosure: Executive summary of the final report of the study on the question of the effectiveness of an assignment or subrogation of a claim against third parties and the priority of the assigned or subrogated claim over a right of another person