



INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW
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Item No. 4 on the agenda: Organisation's activity in 2018

(memorandum prepared by the Secretariat)

<i>Summary</i>	<i>Review of the activities carried out by UNIDROIT in 2018 to implement the Work Programme adopted in 2016, including staffing and funding implications</i>
<i>Action to be taken</i>	<i>To take note of the resources allocated to carry out the current Work Programme</i>
<i>Related documents</i>	<i>UNIDROIT 2017 – F.C. (83) 3; UNIDROIT 2016 – A.G. (75) 3; UNIDROIT 2017 – A.G. (76) 8; UNIDROIT 2018 – F.C. (85) 3</i>

Introduction

1. The Work Programme of UNIDROIT for the triennium 2017-2019 covers a number of topics originally recommended by the Governing Council for inclusion in the Work Programme at its 95th session (Rome, 18-20 May 2016) and approved by the General Assembly at its 75th session (Rome, 1 December 2016) (see document UNIDROIT 2016 – A.G. (75) 8, paras. 24-44).

2. The following criteria are applied to determine the level of priority assigned to the different activities in the Work Programme:

(a) Priority for allocation of meeting costs:

- (i) "high priority" – project that should take precedence over others;
- (ii) "medium priority" – projects eligible for being initiated or advanced in the event that the costs of high priority projects turn out to be lower than anticipated (e.g. because the Secretariat obtains extra-budgetary funding), thus freeing resources under the regular budget; and
- (iii) "low priority" – projects that should only be advanced after completion of other projects or on the basis of full extra-budgetary funding.

(b) Priority for allocation of human resources:

- (i) "high priority" – at least 70% of the time of the responsible officers;
- (ii) "medium priority" – not more than 50% of the time of the responsible officers; and
- (iii) "low priority" – not more than 25% of the time of the responsible officers.

(c) Indispensable functions: Indispensable functions are those that are either imposed by the Statute of UNIDROIT (e.g. library, governance) or are otherwise necessary for its operation (e.g. management and administration). These functions are by their very nature "high priority", which is why they are supported by a dedicated pool of human and financial resources.

3. The Work Programme for the triennium 2017-2019 currently includes the following activities with the priorities assigned by the General Assembly at its 75th session (Rome, 1 December 2016):

A. Legislative activities

- 1. Secured transactions
 - (a) Implementation of Rail and Space Protocols: high priority
 - (b) Preparation of other Protocols to the Cape Town Convention
 - (i) Agricultural, construction and mining equipment: high priority
 - (ii) Ships and maritime transport equipment: low priority
 - (iii) Renewable energy equipment: low priority

2. Transactions on Transnational and Connected Capital Markets
Legislative Guide on Principles and Rules capable of enhancing trading in securities in emerging markets: high priority
3. Private law and development
Preparation of an international guidance document on agricultural land investment contracts: high priority
4. Transnational civil procedure
 - (a) Formulation of regional rules: high priority
 - (b) Principles of effective enforcement: low priority
5. International Commercial Contracts
Formulation of principles of reinsurance contracts: low priority
6. International sales law
Preparation of a guidance document on existing texts in the area of international sales law in cooperation with UNCITRAL and the Hague Conference on Private International Law: high priority
7. International protection of cultural property
Private art collections: low priority

B. Implementation and promotion of UNIDROIT instruments

1. Depositary functions: high priority
2. Promotion of UNIDROIT instruments: high priority

C. Non-legislative activities

1. UNIDROIT Library and Depository Libraries: high priority
2. Information resources and policy: high priority
3. Internships and scholarships: high priority

4. The present document offers a summary indication of action taken in 2018 to implement the legislative activities that appear on UNIDROIT's Work Programme. More detailed information, as well as information on UNIDROIT's non-legislative activities will be provided in the Annual Report 2018 to be published in 2019. Annex I to the present document includes information, in monetary terms, on the allocation of resources to the various projects and activities of the Institute in the financial year 2018, on the basis of the Budget approved by the General Assembly at its 76th session (Rome, 7 December 2017). Annex II, in turn, provides information on extra-budgetary contributions available to the Secretariat and their allocation to various activities in the year 2018.

A. Legislative activities**1. Secured transactions****(a) Implementation of Rail and Space Protocols to the Cape Town Convention**

Luxembourg Rail Protocol

5. With Resolution No. 1, the Diplomatic Conference for the Adoption of the Draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Railway Rolling Stock (Luxembourg, 12-23 February 2007) established a Preparatory Commission ("Rail Preparatory Commission") to act as Provisional Supervisory Authority for the establishment of the International Registry under the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Railway Rolling Stock ("Luxembourg Rail Protocol"). Following the approval of the Registry Contract and Master Service Agreement, the designation of the prospective Registrar, and the signature of the Contract for the Establishment and Operation of the International Registry in 2014, the Rail Preparatory Commission set up a Ratification Task Force (RTF). The RTF is composed of the following members: The Co-Chairs of the Rail Preparatory Commission; the Government of Luxembourg; representatives of the Rail Working Group; Regulis SA, as designated Registrar; SITA; the Intergovernmental Organisation for International Carriage by Rail (OTIF), Secretariat of the future Supervisory Authority for the Registry; and UNIDROIT.

6. The RTF planned an intense agenda for its work and met several times in 2018, through teleconferences and meetings in person, with the aim of coordinating the strategy towards the implementation of the Luxembourg Rail Protocol.

7. In 2018, UNIDROIT representatives participated in a number of fruitful institutional meetings, conferences, seminars and lectures regarding the Cape Town Convention and its Protocols, including the Luxembourg Rail Protocol, which will be detailed in the Annual Report 2018.

8. On 2 July 2018, Sweden became the third Contracting State to the Luxembourg Rail Protocol by ratifying it on that date.

9. The 8th session of the Rail Preparatory Commission will convene in Rome on 6-7 December, to approve the documentation – partly already approved by the governing bodies of OTIF – concerning the Registry and Supervisory Authority, which is needed for the entry into force of the instrument, as well as to plan the way forward and discuss implementation strategies.

Space Protocol

10. Resolution No. 1 of the Diplomatic Conference for the Adoption of the Draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets (Berlin, 27 February–9 March 2012) set up a Preparatory Commission ("Space Preparatory Commission") to act as Provisional Supervisory Authority for the establishment of the International Registry for Space Assets, under the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets ("Space Protocol"). The following States agreed to serve as members of the Preparatory Commission: Brazil, the People's Republic of China, the Czech Republic, France, Germany, India, Italy, the Russian Federation, Saudi Arabia, South Africa and the United States of America. The International Telecommunication Union (ITU), as well as representatives of the financial and commercial world, were invited as observers.

11. The Fifth Session of the Preparatory Commission was held at UNIDROIT's seat in Rome on 6 December 2017, under the Presidency of the former Chair of the Commission of the Whole at the Berlin Conference Professor Sergio Marchisio. The Commission convened to discuss the progress in the appointment of a Supervisory Authority and the selection of the Registrar as well as a series of future promotional events for 2018.

12. Following the discussions held during the meeting of the Preparatory Commission, its members agreed to constitute a Sub-Group to reassess industry participation for the promotion and development of the Space Protocol. The primary purpose of this sub-group was to reach out to members of the industry and ascertain whether they would be willing to lend their support towards the Space Protocol and, if so, invite them to participate in a relaunched Space Working Group. The Sub-Group held regular teleconferences to provide updates on promotional activities.

13. All activities undertaken by the Secretariat for the promotion of the Space Protocol will be detailed, as customary, in the Annual Report 2018.

(b) Preparation of other Protocols to the Cape Town Convention

*(i) Mining, Agricultural and Construction (MAC) Equipment ***

14. The MAC Protocol is rapidly progressing towards adoption. At its 97th session (Rome, 2–4 May 2018), the UNIDROIT Governing Council approved the convening of a Diplomatic Conference in 2019 to formally adopt the draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Mining, Agricultural and Construction Equipment (the "MAC Protocol").

15. Following consultations with a number of interested States, the Secretariat accepted an offer from the Republic of South Africa to host the MAC Protocol Diplomatic Conference, which will be held in Pretoria on 11–22 November 2019. States were informed of the dates and location of the Diplomatic Conference in a Note Verbale (October 2018). Formal invitations to participate will be sent in early 2019.

16. In advance of the MAC Protocol Diplomatic Conference, the Secretariat has been assisting States in their consideration of the Protocol and its anticipated legal and economic impact. UNIDROIT has organised a series of domestic, regional and international consultation events on the MAC Protocol throughout 2018. Consultations have taken place in Australia, Hungary, Indonesia, Japan, Mexico, Papua New Guinea, Paraguay, South Africa, Spain and the United Kingdom. The major 2018 event was an international consultation event on the scope of the MAC Protocol convened on 11 September 2018 in partnership with the Commercial Law Centre of the University of Oxford's Harris Manchester College. The consultation event brought together 35 Governmental representatives and legal experts from 21 countries.

17. To allow States the opportunity to provide input on the scope of the MAC Protocol, the Secretariat established a process for States to propose Harmonized System (HS) codes which they believe should be added to the 42 HS codes currently in the annexes to the draft MAC Protocol. The process was established pursuant to a request by the Committee of Governmental Experts (CGE) at its second session (Rome, 2–6 October 2017). States were given five months to propose additional codes and were requested to submit their proposals before 30 November 2018.

18. Upon request of the CGE at its first session (Rome, 20–24 March 2017), the Secretariat commissioned Warwick and Associates to undertake an independent *ex ante* Economic Assessment (EA) of the MAC Protocol. The MAC Protocol EA was mainly funded by the MAC Working Group. The preliminary MAC Protocol EA was presented to the CGE at its second session (Rome, 2–6 October 2017) and the final EA was presented at the 7th Cape Town Convention Academic Project Conference

in September 2018. The assessment estimates that over a ten year period, the MAC Protocol may increase the stock of MAC equipment in developing countries by \$90 billion and is predicted to have a positive impact of \$23 billion in developing countries and \$7 billion in developed countries, for a total annual impact on GDP for UNIDROIT Member States equivalent to \$30 billion.

19. The text of the draft MAC Protocol and the economic assessment are available on the MAC Protocol page of the UNIDROIT website.

(ii) *Ships and maritime transport equipment* *

20. Based on the Governing Council's recommendation, the General Assembly at its 75th session (Rome, 1 December 2016) decided to retain in UNIDROIT's Work Programme for the triennium 2017–2019, at a low level of priority, the preparation of an additional Protocol to the Convention on International Interests in Mobile Equipment on matters specific to ships and maritime transport equipment.

21. Consistent with the assigned level of priority, the Secretariat continued to monitor developments in this area. Such monitoring includes following (a) the ongoing work by an International Working Group of the *Comité Maritime International* (CMI), which is examining "Ship Financing Security Practices",¹ and (b) the continued interest of the African Shipowners Association in the possible preparation of a Protocol on matters specific to ships and maritime transport equipment.²

(iii) *Renewable energy equipment* *

22. 17. Consistent with the low priority assigned to the project in the Institute's Work Programme for the triennium 2017-2019, throughout 2018 the Secretariat has continued to conduct research and engage with industry to further determine the viability of a future Protocol on renewable energy equipment.³

2. Transactions on Transnational and Connected Capital Markets

Legislative Guide on Principles and Rules capable of enhancing trading in securities in emerging markets **

23. The final session of the diplomatic Conference to adopt a Convention on Substantive Rules regarding Intermediated Securities (Geneva, 5-9 October 2009) adopted the UNIDROIT Convention on Substantive Rules for Intermediated Securities (the "Geneva Securities Convention" or the "Convention") and established a Committee on Emerging Markets Issues, Follow-Up and Implementation to assist with the Convention's promotion and implementation. The Committee was responsible, *inter alia*, for overseeing the preparation of a draft Legislative Guide containing principles and rules capable of enhancing trading in securities in emerging markets, which is a high priority item in UNIDROIT's Work Programme for the 2017-2019 triennium.

¹ See, e.g., CMI, Ship Financing Security Practices, <https://comitemaritime.org/work/ship-finance/>; CMI Assembly, Programme for London Events (8-9 November 2018), <http://comitemaritime.org/events/london-programma/>.

² See, e.g., UNIDROIT 2016 – C.D. (95) 13 Add. 4 rev. para. 2 and Annex 1 (containing letter from the Secretary-General of the African Shipowners Association).

³ A 2018 article published in the Uniform Law Review by Ole Boger, judge in the Hanseatic Court of Appeal in Bremen, Germany, was supportive of the project and concluded that there are no general impediments to the extension of the Cape Town Convention to renewable energy equipment, however the article also identified important issues that would need to be addressed in order for the instrument to be successful (UNIF. L. REV., Vol. 23, 2018, 242–269).

24. At its 96th session (Rome, 10-12 May 2017), the Governing Council considered and adopted the draft Legislative Guide, which was entitled, in full, the UNIDROIT Legislative Guide on Intermediated Securities: Implementing the Principles and Rules of the Geneva Securities Convention (the “Legislative Guide”).⁴ In doing so, the Governing Council authorised the Secretariat to publish and promote it. With respect to publication, the Legislative Guide has thus far been published and made available on UNIDROIT’s website in Chinese, English, French and Spanish.⁵

25. With respect to promotion, a launch event consisting of a panel presentation was held immediately following the General Assembly’s 76th session (Rome, 7 December 2017). For that panel, Mr Francisco J. Garcimartín (Chair Professor of Private International Law, Universidad Autónoma of Madrid) provided an overview of the Legislative Guide and its relationship to the Geneva Securities Convention, and Ms Maria Chiara Malaguti (Chair Professor of International Law, Catholic University of the Sacred Heart of Milan) discussed the importance of promotion and implementation of the Legislative Guide and its potential benefits for States.

26. Since the Legislative Guide’s launch, the Secretariat has taken various steps to promote its use and implementation. First, the Secretariat has made available significant supplementary resources on UNIDROIT’s webpage for the Legislative Guide, such as: (a) reports and documents from the Committee’s meetings;⁶ (b) model examples of legislative or regulatory texts or related descriptions, which are ordered by the paragraph number to which they relate;⁷ and (c) bibliographic references, which are organised alphabetically by the entity or individual authors, with indications for those sources that are expressly referenced in the Legislative Guide.⁸ Second, the Secretariat has sought to promote the Legislative Guide, as well as its fellow capital market instruments, through various events and in different fora, including in the context of panel presentations at the Queen Mary-UNIDROIT Institute of Transnational Commercial Law’s conference entitled “Development Finance in Emerging Markets: Challenges, Innovations and Results” (Oxford, 13-15 April 2018);⁹ and in the American Society of International Law’s Annual Meeting (Washington, 4-7 April 2018) as part of a panel considering “The International and Transnational Law of Complex Financial Transactions.”¹⁰

⁴ The Legislative Guide is the third instrument resulting from UNIDROIT’s work in the area of transactions on transnational and connected capital markets, which has sought to promote legal certainty and sustainable growth in this very significant area of economic activity. The Legislative Guide complements and promotes the first instrument – the Geneva Securities Convention – by summarising the Convention’s key principles and rules and by offering guidance on choices to be made and matters to be addressed or clarified in establishing an intermediated securities holding system or evaluating an existing one. The Legislative Guide also complements and promotes the second instrument – the UNIDROIT Principles on the Operation of Close-Out Netting Provisions, which were adopted by the UNIDROIT Governing Council at its 92nd session (Rome, 8-10 May 2013) – by offering guidance consistent with those Principles and incorporating references to them.

⁵ See Overview, development and documentation for the UNIDROIT Legislative Guide on Intermediated Securities, <https://www.unidroit.org/instr-capitalmarkets-legislative-guide>.

⁶ *Id.*

⁷ Model examples for the UNIDROIT Legislative Guide on Intermediated Securities, <https://www.unidroit.org/model-examples>.

⁸ Bibliography for the UNIDROIT Legislative Guide on Intermediated Securities, <https://www.unidroit.org/instr-capitalmarkets-legislative-guide-select-bibliography>.

⁹ Development Finance in Emerging Markets: Challenges, Innovations and Results, Oxford Law Faculty, <https://www.law.ox.ac.uk/events/development-finance-emerging-markets-challenges-innovations-and-results>.

¹⁰ The 2018 ASIL Annual Meeting, ASIL, <https://www.asil.org/events/2018-asil-annual-meeting> (containing meeting programme).

3. Private law and development

Preparation of an international guidance document on agricultural land investment contracts ***

27. The Working Group on Agricultural Land Investment Contracts is continuing to study and prepare a future Legal Guide on such contracts (the “Legal Guide”).¹¹ As envisioned by the Working Group, the future Legal Guide is to build upon the success of the UNIDROIT-FAO-IFAD Legal Guide on Contract Farming and the UNIDROIT Principles of International Commercial Contracts and offer guidance on agricultural land investment contracts involving leases of agricultural land from governments and local communities that is consistent with the high-level principles and standards set out in the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) and the CFS Principles for Responsible Investment in Agriculture and Food Systems (CFS-RAI Principles).

28. Further to the preparation of the Legal Guide, the Working Group took the following key steps since the General Assembly’s 76th session (Rome, 7 December 2018).¹² On 8 February 2018, the Working Group met via videoconference to discuss the input received from the informal meeting held on 11 October 2017 in the context of the CFS’ 44th plenary session (Rome, 9-13 October 2017), to review an initial draft of the Preface and Introduction of the future Legal Guide and to consider the experts’ questions and comments relating to their respective drafting responsibilities.

29. On 25-27 April 2018, the Working Group held its third meeting, at which the Group considered the future Legal Guide’s scope and key themes, and reviewed in detail 14 Working Papers containing drafts of nearly all the chapters and sections identified in the draft outline.

30. On 2 July 2018, the Working Group held another videoconference to discuss recent developments, drafting and revising notes prepared by the Secretariat for use by the experts in revising their drafts and various questions regarding the drafts and next steps.

31. On 9-11 October 2018, the Working Group held its fourth meeting, at which the Group reviewed in detail drafts for all of the chapters and sections of the future Legal Guide and discussed next steps, including the plan for broad and extended consultations on a consolidated version of the draft Legal Guide, for incorporating the input received and for finalising the Legal Guide.

32. In addition, the Secretariat, in conjunction with the Working Group, has participated in various conferences and events to raise awareness about the future Legal Guide and to seek stakeholder input on it. Such participation includes: (a) on 22 March 2018, a presentation by the Secretariat on the future Legal Guide as part of a panel on “Land Governance and the VGGT” at the World Bank’s Annual Land and Poverty Conference (Washington, 19-23 March 2018); (b) on 8 October 2018, a presentation by Professor James Gathii, a Working Group expert, on the future Legal Guide and some of the key contractual issues that it will address as part of a panel on “Sustainable investment in agriculture” at the International Bar Association’s Annual Meeting (Rome, 7-12 October 2018); and (c) on 18 October 2018, a Side Event, entitled “Improving Agricultural Investment Contracts and the

¹¹ The Working Group is chaired by Mr José Antonio Moreno Rodríguez, a member of the UNIDROIT Governing Council, and currently includes: Mr Lorenzo Cotula, Principal Researcher in Law and Sustainable Development at the International Institute for Environment and Development (IIED); Mr Daryono, Professor at Universitas Terbuka, Jakarta; Ms Bénédicte Fauvarque-Cosson, Professor at Université Paris 2; Mr James Gathii, Wing-Tat Lee Chair in International Law and Professor of Law at Loyola University Chicago School of Law; Ms Jean Ho, Assistant Professor at the National University of Singapore; Mr Pierre-Etienne Kenfack, Professor at Université Yaoundé 2; Ms Yuliya Panfil, Associate, Investments at Omidyar Network and Mr Virgilio de los Reyes, Professor, De La Salle University, Manila. The Working Group also includes representatives of FAO; IFAD; the International Land Coalition; the World Farmers Organisation; the Private Sector Mechanism (PSM) of the Committee on World Food Security (CFS); the Columbia Center for Sustainable Investment (CCSI); the International Institute for Sustainable Development (IISD); and Welthungerhilfe.

¹² For additional background on the Working Group and its initial meetings, see UNIDROIT 2017 – A.G. (76) 2 rev., paras. 31-35.

Contracting Process” and organised jointly with FAO and IFAD, at the CFS’ 45th plenary session (Rome, 15-19 October 2018). The latter event was moderated by Secretary-General Ignacio Tirado and included expert panellists – Ms Margret Vidar (FAO), Mr Charles Forrest (IFAD), Mr Lorenzo Cotula (IIED), Mr Brian Baldwin (PSM/CFS) and Ms Ilaria Bottigliero (IDLO) – who discussed the future Legal Guide, examined some of the key issues and safeguards addressed in it and sought input from participants.

33. The Secretariat is currently working to revise and consolidate the various drafts of the future Legal Guide in conjunction with the Working Group. Subject to the draft Legal Guide’s progress, the Secretariat is planning to hold an open online consultation, as has been done for the UNIDROIT-FAO-IFAD Legal Guide on Contract Farming, and consultation events around the world in coordination with Working Group experts, with the input received to be incorporated into the future Legal Guide by the Secretariat together with the experts and representatives.

4. Transnational civil procedure

(a) Formulation of regional rules ***

34. In 2014, UNIDROIT and the European Law Institute (ELI) agreed on a Memorandum of Understanding specifically related to a project on European civil procedure rules based on the American Law Institute (ALI) – UNIDROIT Principles of Transnational Civil Procedure.

35. The drafting of the Rules was entrusted to Working Groups (WGs), one for each main topic covered by the ALI/UNIDROIT Principles, led by two Co-Reporters and ensuring geographical, linguistic and – to the extent possible – professional diversity. The WGs started functioning in successive waves (to keep the project manageable and to permit to some members of the earlier WGs to join the newer ones, in order to make full use of their experience): a total of eight WG’s were established (“access to information and evidence”, “provisional and protective measures”, “service of documents and due notice of proceedings”, “*lis pendens* and *res judicata*”, “obligations of the parties and lawyers”, “Costs”, “Judgments”, “Parties” and “Appeals”), with the first three having finalised their drafts in 2017 for inclusion in a consolidated text reviewed by an overarching “Structure Group” set up with the task of providing substantive coordination. This text was presented to the Steering Committee of the project (composed by representatives of ELI and UNIDROIT) and to the UNIDROIT Governing Council at its 96th session (Rome, 10-12 May 2017). Bi-annual plenary meetings of the Steering Committee and active WG’s Reporters (and members) hosted by the two sponsoring organisations were held to discuss draft texts and provide coordination. The Steering Committee further decided to invite to the Annual Plenary Meetings a number of institutional Observers from Intergovernmental Organisations (Hague Conference on Private International Law (HCCH)), European Institutions (the European Commission, the European Parliament and the Court of Justice of the European Union), Professional Associations and Research Associations and Institutions as well as the ALI. Finally, it was decided to set up a list of advisers drawn both from academia and the legal professions, among which a number of members of the UNIDROIT Governing Council.

36. A plenary meeting of the Steering Committee, Co-reporters and active WG members was held in Rome on 9-10 April 2018 for the discussion of drafts of the work of the Groups on “Parties”, “Costs”, “Judgments” and “Appeals”. It was preceded by a closed session to advance the coordination of the drafts.

37. At its 97th session (Rome, 2-4 May 2018), the Governing Council reviewed the drafts provided by the WG on Parties and Judgments.

38. At the ELI General Assembly (Riga, 5-7 September 2018), ELI President Diana Wallis and Deputy Secretary-General of UNIDROIT Anna Veneziano co-chaired a panel which (i) provided a brief overview of the progression of the Structure Group and its current status with possible topical issues

including the scope/layout of the structure, use of comparative materials and the positioning of certain sections/topics, (ii) explored how the projects would confront the new developments of the digital age, and finally (iii) addressed the latest draft of the Working Group dedicated to Parties to show how the group had tackled certain topical issues (i.e. collective redress) given the new EU proposals and third party funding. The panel, which included Xandra Kramer (University of Rotterdam), John Sorabji (Principal Legal Adviser to the Lord Chief Justice and Master of the Rolls, Judicial Office for England and Wales), and Emmanuel Jeuland (La Sorbonne), stimulated a lively discussion among the participants.

39. The project will be further discussed at a joint ELI/UNIDROIT open conference organised in cooperation with the Academy of European Law (ERA), which will be held at ERA's Headquarters in Trier (Germany), on 26-27 November 2018.

(b) Principles of effective enforcement *

40. Although the ALI-UNIDROIT Principles of Transnational Civil Procedure are comprehensive, they are mainly designed to give guidance for first instance procedures and only minimally address issues of enforcement. In particular, Principle 29 of the ALI-UNIDROIT Principles emphasises the need for speedy and effective enforcement, but the comment makes clear that the topic as such was beyond the scope of those Principles. The same can be said for the work on transnational civil procedure approved so far by other global intergovernmental organisations such as UNCITRAL, the UN and the HCCH, with the exception of recognition and enforcement of arbitral awards.

41. The right to effective enforcement of judgements represents an integral part of the fundamental right to a fair and effective procedure. The economic significance of effective enforcement mechanisms, moreover, embraces decision-making and execution and was considered, by the World Bank as well as an increasing number of national governments, to be a fundamental criterion for the assessment and evaluation of national economies and for credit rating purposes. In recent decades, many States have introduced important reforms of their enforcement law and, in some States, such reforms are still in process. While in the EU the law of enforcement is, in principle, within the competence of the individual States, the EU enacted legislation facilitating cross-border debt recovery and initiated reports on the present status of the enforcement laws of EU Member States. All of these activities document increasing concern about inefficient enforcement mechanisms at national and transnational levels. The Secretariat believes that transnational principles of enforcement could provide helpful guidelines for legislators wishing to improve their national law, while at the same time contributing to the emergence of common minimum standards for national procedures as the necessary basis for improving international cooperation in this area.

42. The proposal by the Secretariat was supported by a preliminary feasibility study conducted by Rolf Stürner, Emeritus Professor at the University of Freiburg (Germany) and former Co-Reporter of the ALI/UNIDROIT Principles of Transnational Civil Procedure. The proposal received the recommendation of the Governing Council at its 95th session (Rome, 18-20 May 2016), and was adopted as part of the Work Programme for the triennium 2017-2019 by the General Assembly at its 75th session (Rome, 1 December 2017).

43. While the Secretariat conducted some background research work on existing instruments and projects and need for coordination, substantive work on the project will begin upon completion of the substantive work on the ELI-UNIDROIT project on transnational civil procedure – formulation of regional rules, which is expected by late 2019.

5. International Commercial Contracts - Formulation of principles of reinsurance contracts *

44. In July 2015, the Secretariat was approached by a group of scholars and practicing lawyers led by Professor Anton K. Schnyder and Professor Helmut Heiss (University of Zurich, as "Lead Agency"), Professor Martin Schauer (University of Vienna) and Professor Manfred Wandt (University of Frankfurt), who were examining the feasibility of formulating "Principles of Reinsurance Contract Law" (PRICL). This initiative was inspired by the project group "Restatement of European Insurance Contract Law", which led to the publication of the Principles of European Insurance Contract Law (PEICL).¹³ The purpose of the project is to formulate a "restatement" of existing global reinsurance law, which is largely embedded in international custom and usage, but is seldom the subject of legislation.

45. The project received financial support from the Swiss National Science Foundation, the German Research Foundation and the Austrian Research Promotion Fund. In addition to the project managers, the research team includes well-known representatives from Belgium, Brazil, China, Germany, France, Great Britain, Italy, Japan, Singapore, South Africa and the United States of America. In addition, two advisory groups made up of representatives of the global insurance and reinsurance markets advise the research team.

46. The project leaders have expressed the view that the proposed principles presuppose the existence of adequate rules of general contract law. Rather than attempting to re-create such rules, the proposed new principles were to be drafted as a "special part" of the UNIDROIT Principles of International Commercial Contracts.

47. On 16-17 January 2018, UNIDROIT participated in the 5th PRICL Workshop in Vienna, with the main focus on this occasion being to ensure consistency with and provide interpretation of the UNIDROIT Principles of International Commercial Contracts particularly on the Rules concerning Remedies.

48. A progress report on the project, together with a first table of contents of the PRICL prepared by Professor Heiss were sent to the Secretariat in May 2018 and presented to the UNIDROIT Governing Council.

49. On 6-8 June 2018, UNIDROIT participated in the 6th PRICL Workshop in Bad-Homburg (Germany). The workshop session successfully completed the plenary discussion of the draft PRICL considering among others the remaining issue relating to the Rules on Remedies and their consistency with the UNIDROIT Principles.

6. International sales law - Preparation of a guidance document on existing texts in the area of international sales law in cooperation with UNCITRAL and The Hague Conference on Private International Law ***

50. On 14 December 2015, the Secretariat received a communication from the Secretariat of UNCITRAL inviting UNIDROIT and the HCCH to cooperate on a project for the "creation of a roadmap to the existing texts in the area of international sales law (sales contracts) prepared by each organisation, primarily the CISG, the UNIDROIT Principles, and the Hague Principles, and providing an assessment of interactions between the texts, their actual and potential use, application, and impact, all with the goal to facilitate promotion of their appropriate use, uniform interpretation, and adoption." That communication further stated that such a project should "extend also, as relevant,

¹³ Principles of European Insurance Contract Law, Edited by Project Group "Restatement of European Insurance Contract Law", established by Fritz Reichert-Facilides †, Chairman: Helmut Heiss, Sellier European Law Publishers (October 2009).

to the other texts in the field prepared by the three organisations (including, for example, the Limitation Convention, the Electronic Communications Convention, the 1983 Uniform Rules, ULIS/ULFC 1964, and the 1955/1986 Hague Conventions), and make reference, as needed, to outside instruments (e.g. those of regional economic integration organisations such as the EU, OHADA, as well as those of the ICC, ITC)."

51. As regards the methodology, it was suggested that the work should be entrusted to "a small joint panel of experts, chosen by the three organisations and including, to the extent possible, representatives from differing legal traditions and from countries with differing levels of economic development, and also including, as possible, representatives from other particularly relevant organisations (e.g., regional economic integration organisations, ICC, ITC)". The envisaged outcome would be a joint publication or online tool reflecting contributions from all organisations and keeping in mind the successfully completed "UNCITRAL, Hague Conference, and UNIDROIT Texts on Security Interests"¹⁴ and having "legislators, judges and arbitrators, and/or lawyers and commercial operators" as the target audience.

52. The governing bodies of UNIDROIT, HCCH and UNCITRAL approved the joint project in 2016. The Secretariats of the three Organisations have since held a series of exchanges with a view to further refining both the proposed nature and scope of the projects, as well as devising the methodology and clarifying the timetable. In the interest of representing different legal traditions and geographic regions, they identified a small joint panel of experts of international commercial contracts law and/or private international law to produce it. The Group was able to agree on the table of contents of the guide – Introduction, Determination of the Law Applicable to International Commercial Contracts, Substantive Law of Sales, Recurring Legal Issues Arising in connection with Sales Contracts, Guidance for Specific Business Sectors – with each chapter to be assigned to a sub-group.

53. The project was discussed at the meeting of the Council on General Affairs and Policy of the HCCH (13-15 March 2018), and subsequently by the Governing Council of UNIDROIT (2-4 May 2018).

54. The three Secretariats also agreed to consult relevant stakeholders, including associations of judges and practitioners, for comments before seeking formal approval of their respective governing bodies. In this context, the same issues related to the relationship among the instruments presented at the International Bar Association's Annual Conference in Rome (8-12 October 2018). As far as the timeline of approval of the Guide is concerned, UNCITRAL had expressed the wish to have the finalised text, including the consultation period, approved by its organs by July 2020, in conjunction with the 40th Anniversary of the CISG. The three Secretariats agreed on this timeline; a consolidated draft should be however produced by the Experts and ready for distribution to the UNIDROIT Governing Council by May 2019.

7. International protection of cultural property - Private art collections*

55. The topic of private art collections was included in the UNIDROIT Work Programme for the triennium 2017-2019 at the General Assembly's 75th session (Rome, 1 December 2016) and was assigned a low level of priority. In order to identify those private law aspects that fell within its mandate, UNIDROIT hosted a conference entitled "Private Collections: Historical and Legal Perspectives" (Rome, 16-17 March 2017)¹⁵ and had invited Ms Elina Moustaira, Professor of Comparative Law at the School of Law of the National and Kapodistrian University of Athens, to make

¹⁴ UNCITRAL, The Hague Conference and UNIDROIT Texts on Security Interests: Comparison and analysis of major features of international instruments relating to secured transactions (New York, 2012).

¹⁵ A conference organized by ISCHAL (the International Society of Research on Art and Cultural Heritage Law), the *Institut des sciences sociales du politique* (ISP) (CNRS-ENS Cachan-Université Paris-Nanterre) and Legal Office BonelliErede.

a presentation, which later became a document indicating private law aspects for which UNIDROIT's particular expertise would be of additional benefit in this field.

56. At its 96th session (Rome, 10-12 May 2017), the Governing Council considered the topic and encouraged the Secretariat to continue to investigate the feasibility of possible future work which would be consistent with its mandate and with the provisions of the 1995 UNIDROIT Convention on Cultural Property and other relevant instruments in its field. The Governing Council also reiterated the low priority assigned to the subject.

57. UNIDROIT continued its research to identify the private law aspects falling within its mandate to provide added value, and to follow developments relating to private art collections and collect information on studies prepared by other organisations (UNESCO, Council of Europe, etc.). The topic was also included in the Academic Project (UCAP) to collect material. Furthermore, a conference organized by ISCHAL (the International Society of Research on Art and Cultural Heritage Law) took place in Geneva on 1-2 March 2018. With the title of "Provenance of cultural objects", it devoted a whole session to the provenance of collections with the participation of lawyers, museum directors and collectors. During this conference, and during the one entitled "Engaging the European art market in the fight against the illicit trafficking of cultural property" which took place at UNESCO in March 2018, the emphasis on the importance of the concept of "due diligence" of the 1995 Convention was reiterated as well as the need to work with private collectors. UNIDROIT also conducted preliminary exchanges with the IBA Art, Cultural Institutions and Heritage Law Committee in order to ascertain, inter alia, the difficulties collectors face as viewed by practicing lawyers. While it is not possible to identify which kind of instrument UNIDROIT would end up with at this stage, guidelines based on international practice could be studied and developed. It could also be a case of model provisions, guidelines or simply a "catalogue" of recommendations to collectors or/and States.

58. At its 97th session (Rome, 2-4 May 2018), the Governing Council took note of the activities of the Secretariat in this area and encouraged it to continue along this path.

B. Implementation and promotion of UNIDROIT instruments

1. Depositary functions***

59. UNIDROIT has been designated Depositary of the Cape Town Convention on International Instruments in Mobile Equipment (2001) and its three Protocols (on Matters Specific to Aircraft Equipment -Cape Town, 2001-, on Matters Specific to Railway Rolling Stock -Luxembourg, 2007-, and on Matters Specific to Space Assets -Berlin, 2012-), and of the UNIDROIT Convention on Substantive Rules for Intermediated Securities (Geneva, 2009). Up to date information on the status of these instruments can be found on UNIDROIT's website (www.unidroit.org).

2. Promotion of UNIDROIT instruments***

60. Throughout the year UNIDROIT participates actively in numerous events (e.g. conferences and seminars) to illustrate and explain the instruments it has adopted or upon which it is working. Details on those events are to be found in the documents submitted to the Governing Council, in particular the document regarding the promotion of UNIDROIT's instruments (e.g. UNIDROIT 2018 - C.D. (97) 12 and UNIDROIT 2017 – C.D. (96) 10), as well as in the various project-specific documents.

C. Non-legislative activities

1. UNIDROIT Library and Depository Libraries***

(a) UNIDROIT Library

61. In 2018, about 900 monographs and articles were scanned for the digitisation project approved by the Governing Council. Subsequent to quality control and indexing, the digital items are incorporated into the digital collection which will be available to researchers with privileged user rights as of December 2018. In 2018, the Library received donations in kind from the Max Planck Institute for Comparative and International Private Law (Hamburg, Germany).

(b) Depository Libraries

62. Before the age of websites, UNIDROIT asked Member States to appoint specific libraries or other official institutions to act as Depository Libraries for UNIDROIT documentation. The list of Member States on the website indicates also if Depository Libraries have been appointed.

2. Information resources and policy***

(a) Paper-based Publications

63. In addition to monographs directly linked to the Work Programme of the Institute and the instruments it has adopted, UNIDROIT publishes the *Uniform Law Review* with Oxford University Press (OUP). The Spanish version of the fourth edition of the *UNIDROIT Principles of International Commercial Contracts 2016* was published in 2018. It was also published in Romanian and Russian care of members of the UNIDROIT Governing Council. Work on Chinese and Korean versions is underway. A fourth edition of the *Official Commentary on the Convention on International Interests in Mobile Equipment and Protocol thereto on Matters Specific to Aircraft Equipment* prepared by Professor Sir Roy Goode will be printed in the first quarter of 2019.

(b) Electronic Sources of Information on UNIDROIT

64. The UNIDROIT website is monitored with Google Analytics as regards the points of entry, the countries of origin of users, the website pages most consulted and the age groups of users. In addition, through UNIDROIT's social media programme the organisation is present on Facebook, LinkedIn and Twitter. In addition to reaching persons not reached by other means, Facebook is the largest single source of referrals for the website. More detailed data is available upon request of attendants to the Assembly.

3. Internships and scholarships***

65. In 2018, 31 interns from 17 countries¹⁶ worked alongside the Secretariat for a short period of time. Ten Scholars from eight countries received a scholarship under the UNIDROIT Scholarships Programme¹⁷ and 21 independent researchers from 12 countries¹⁸ were guests of the Library.

¹⁶ Argentina, Australia, Belgium, Brazil, France, Germany, Iran, Israel, Italy, Kenya, Mexico, People's Republic of China, Puerto Rico, Russian Federation, Thailand, Turkey, USA.

¹⁷ Brazil, Colombia, France, Guatemala, Indonesia, People's Republic of China Poland, Russian Federation.

¹⁸ Brazil, Chile, Colombia, Czech Republic, France, India, Italy, Netherlands, Paraguay, Spain, Turkey, Ukraine.

ANNEX I

**Expenditure in Implementation of Work Programme
(estimate by 31 December 2018)**

Secured transactions		Priority level	<i>Regular budget</i>
(a) Implementation of Rail and Space Protocols		***	
Staffing costs	Professional staff (Ch. 2.1, 3.1)		36.128,07
	General services (Ch. 2.1, 3.1)		7.123,32
Conference costs	Official journeys (Ch. 1.5)		12.190,88
	Interpretation/technical services/representation (Ch. 1.5)		3.215,00
	Official journeys of experts (Ch. 1.5)		3.000,00
Total			61.657,27
(b) Preparation of other Protocols to the Cape Town Convention			
(1) Mining, Agricultural and construction equipment		***	
Staffing costs	Professional staff (Ch. 2.1, 3.1)		95.323,46
	General services (Ch. 2.1, 3.1)		33.736,81
Consultation/Promotion	Interpretation/technical services/representation (Ch. 1.5)		0,00
	Official journeys (Ch. 1.5)		12.190,88
	Official journeys of experts (Ch. 1.5)		0,00
Total			141.251,14
(2) Ships and maritime transport equipment		*	
Staffing costs	Professional staff (Ch. 2.1, 3.1)		1.721,17
	General services (Ch. 2.1, 3.1)		0,00
Total			1.721,17
(3) Renewable energy equipment		*	
Staffing costs	Professional staff (Ch. 2.1, 3.1)		0,00
	General services (Ch. 2.1, 3.1)		0,00
Total			0,00
Transnational and Connected Capital Markets			
Legislative Guide to enhance trading in securities in emerging markets		***	
Staffing costs	Professional staff (Ch. 2.1, 3.1)		17.198,44
	General services (Ch. 2.1, 3.1)		6.746,61
Conference costs	Official journeys of experts (Ch. 1.5)		0,00
	Interpretation/technical services/representation (Ch. 1.5)		0,00
Total			23.945,06

Private law and development – Agricultural Land Investment Contracts			***
Staffing costs	Professional staff (Ch. 2.1, 3.1)		85.715,49
	General services (Ch. 2.1, 3.1)		2.678,49
Conference costs	Interpretation/technical services/representation (Ch. 1.5)		4.510,00
	Official journeys (Ch. 1.5)		0,00
	Official journeys of experts (Ch. 1.5)		32.904,84
Total			125.808,82
Transnational civil procedure - formulation of regional rules			
Formulation of regional rules			***
Staffing costs	Professional staff (Ch. 2.1, 3.1)		25.813,53
	General services (Ch. 2.1, 3.1)		10.332,96
Conference costs	Interpretation/technical services/representation (Ch. 1.5)		1.500,00
	Official journeys of staff (Ch. 1.5)		1.611,98
	Official journeys of experts (Ch. 1.5)		32.904,84
Principles of effective reinforcement			
Staffing costs	Professional staff (Ch. 2.1, 3.1)	*	0,00
	General services (Ch. 2.1, 3.1)		0,00
Conference costs	Interpretation/technical services/representation (Ch. 1.5)		0,00
	Official journeys of staff (Ch. 1.5)		0,00
	Official journeys of experts (Ch. 1.5)		0,00
Total			72.163,31
International Commercial Contracts			
Formulation of Principles of reinsurance contracts			*
Staffing costs	Professional staff (Ch. 2.1, 3.1)		0,00
	General services (Ch. 2.1, 3.1)		0,00
Consultation / promotion	Official journeys (Ch. 1.5)		647,19
Total			647,19
International Sales Law			
Guidance Document on Existing tests in the area of international sales law			***
Staffing costs	Professional staff (Ch. 2.1, 3.1)		7.888,03
	General services (Ch. 2.1, 3.1)		1.425,76
Consultation / promotion	Official journeys (Ch. 1.5)		0,00
Total			9.313,79
International Protection of Cultural Property			
Private art collections			*
Staffing costs	Professional staff (Ch. 2.1, 3.1)		9.294,04
	Consultant fees (Ch. 2.1, 3.1)		4.200,00
Consultation / promotion	Official journeys (Ch. 1.5)		0,00
Total			13.494,04

Implementation and promotion		
(1) Depository Functions		***
Staffing costs	Professional staff (Ch. 2.1, 3.1)	31.813,96
	General services (Ch. 2.1, 3.1)	25.777,02
Total		57.590,98
(2) Promotion of UNIDROIT Instruments		***
Staffing costs	Professional staff (Ch. 2.1, 3.1)	193.044,47
	General services (Ch. 2.1, 3.1)	42.321,10
Consultation/promotion	Official journeys (Ch. 1.5)	12.648,87
Conference costs	Official journeys of experts (Ch. 1.5)	3.000,00
	Consultant fees (Ch. 2.1, 3.1)	6.000,00
Postage (Ch.4.3)		3.201,00
Total		260.215,44
Non-legislative activities		
(1) UNIDROIT Library and Depository Libraries		***
Staffing costs	Professional staff (Ch. 2.1, 3.1)	1.975,81
	General services (Ch. 2.1, 3.1)	105.383,21
Acquisitions	Purchase of books, legal journals, binding, software (Ch.6)	62.772,16
Total		170.131,18
(2) Information Resources and policy		***
Staffing costs	Professional staff (Ch. 2.1, 3.1)	75.704,87
	General services (Ch. 2.1, 3.1)	91.254,59
Documentation/translation		
	Postage (Ch. 4)	3.500,00
	Printing costs (Ch. 4)	20.000,00
Total		190.459,45
(3) Internships and scholarships		***
Staffing costs	Professional staff (Ch. 2.1, 3.2)	73.463,59
	General services (Ch. 2.1, 3.1)	46.942,11
Total		120.405,71
Membership, institutional cooperation and governance		
Staffing costs	Secretary-General and Professional staff (Ch. 2. 1, 3.1)	107.286,80
	General services (Ch. 2.1, 3.1)	110.977,47
Conference costs	Interpretation/technical services/representation (Ch. 1.5)	22.870,00
	GA, FC, GC and PC (Ch. 1.1)	40.000,00
Consultation / promotion	Official journeys (Ch. 1.5)	15.585,41
	Representation (Ch. 1.7)	8.000,00
Total		304.719,68

Administration, support services and building management		
Staffing costs	Secretary-General and Professional staff (Ch. 2. 1, 3.1)	50.507,03
	Travel and relocation expenses for departures (2.1)	10.000,00
	General services (Ch. 2.1, 2.2, 3.1)	238.113,98
	Porter overtime (Ch.2.1)	6.000,00
	Auditor (Ch1.4)	4.600,00
Miscellaneous	Consultant fees (Ch. 2.1, 3.1)	6.000,00
	Maintenance costs (Ch. 5)	120.185,07
	Compensation for retired members of staff (Ch. 3.3)	930,43
	Accident insurance (Ch. 3.2)	8.786,45
	Stationery, telephone, fax and Internet (Ch. 4.1, 4.2)	17.404,88
	Miscellaneous (Ch. 4.4)	2.000,00
Total		464.527,85
Total		2.018.052,07

ANNEX II

UNIDROIT Information on Extrabudgetary Contributions in 2018						
		Balance 2017	Received *	Spent **	Balance ***	
Principles on Netting of Financial Instruments		€	Balance 2017	Received	Spent	Balance
<i>Receipts</i>						
Donor	Association of German Banks		281.39			281,39
<i>Expenditure</i>						
Total		€	281.39	0,00		281,39
Preparation of a Legal Guide on Contract Farming		€	Balance 2017	Received	Spent	Balance
<i>Receipts</i>						
Donor	IFAD		0			
	FAO		0			0,00
<i>Expenditure</i>						
Total		€				0,00
Promotion of UNIDROIT Instruments		€	Balance 2017	Received	Spent	Balance
<i>Receipts</i>						
Donor	Uniform Law Foundation		15.002,60			15.002,60
<i>Expenditure</i>						
Total		€	15.002,60	0,00		15.002,60

Research Scholarship Programme		€	Balance 2017	Received	Spent	Balance
Receipts						
Donors	Scholarship General Fund (Gov. Council and various Italian Law Firms)		3.405,73	4.156,00	2.700,00	4.861,73
	Transnational Law and Business University (Republic of Korea)		2.547,64		0,00	2.547,64
	Uniform Law Foundation		4.871,53	3.600,00	5.200,00	3.271,53
	UK Foundation for International Uniform Law		0,00	0,00	0,00	0,00
	People's Republic of China		36.600,00	20.000,00	5.200,00	51.400,00
Expenditure						
	Scholarships					
		€	47.424,90	27.756,00	13.100,00	62.080,90
Total						
UNIDROIT Library		€	Balance 2017	Received	Spent	Balance
Receipts						
Donor	Various Italian Law Firms		29.711,27		19.597,28	10.113,99
Expenditure						
	Purchase of books and journals					
Total			29.711,27		19.597,28	10.113,99
GRAND TOTAL		€	92.420,16	27.756,00	32.697,28	87.478,88

Estimated total receipts as of 31 December 2018 including any amounts carried over from 2017

* Estimated expenditure as of 31 December 2018

** Estimated balance as of 31 December 2018