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**GOVERNING COUNCIL**  
**94<sup>th</sup> session**  
**Rome, 6 – 8 May 2015**

UNIDROIT 2015  
C.D. (94) 8  
Original: English/French  
April 2015

**Item No. 9 on the agenda: Promotion of UNIDROIT instruments**

(prepared by the Secretariat)

<i>Summary</i>	<i>Report on promotional activities for some instruments adopted under UNIDROIT auspices</i>
<i>Action to be taken</i>	<i>The Governing Council is invited to take note of the activities reported</i>
<i>Mandate</i>	<i>Work Programme 2014-2016</i>
<i>Priority</i>	<i>High</i>
<i>Related documents</i>	<i>Annual Report 2014 (C.D. (94) 2)</i>

1. At its 91<sup>st</sup> session in 2012 (see UNIDROIT 2012 – C.D. (91) 12), the Governing Council approved by consensus an adjusted plan for the Organisation's medium-term future (to cover the years 2012-2018) together with an update or redefinition of the Organisation's Strategic Objectives prepared by the Secretariat assisted by an informal working group of the Governing Council.

2. The revised Strategic Plan emphasised the importance of a strategy to promote the instruments adopted by UNIDROIT. The following three Strategic Objectives (out of seven) in particular focus on this aspect:

*Strategic Objective No. 4*

UNIDROIT should aim at exploring synergies with other Organisations for the provision of technical cooperation, in particular by:

(a) systematically integrating strategic considerations on promotion of a future instrument into the decision-making process that leads to the inclusion of a topic into the Work Programme;

(b) devising common promotion and technical assistance programmes with other rule-making agencies having developed complementary instruments, in particular UNCITRAL and the Hague Conference;

(c) intensifying contacts with non-rule-making bodies so as to persuade them of the usefulness of incorporating the promotion of UNIDROIT instruments into their technical assistance and law reform programmes (already the case for Cape Town, could be further explored for securities).

*Strategic Objective No. 5*

UNIDROIT should clearly link its non-legislative activities to the Organization's mandate and the instruments it prepares. UNIDROIT should give priority to non-legislative activities that support the research projects needed to carry out the Organisation's legislative Work Programme, add value to the dissemination of information on UNIDROIT's work and on the promotion of UNIDROIT instruments and offer a satisfactory level of returns, in terms of visibility and recognition.

*Strategic Objective No. 6*

Greater investment should be made in the promotion of UNIDROIT instruments. UNIDROIT should aim at doubling the resources available for the promotion of its instruments, through efficiency gains, reallocation, voluntary contributions or otherwise, within the coming years.

3. At its 92<sup>nd</sup> and 93<sup>rd</sup> sessions (Rome, 2013 and 2014), the Governing Council agreed with the Secretariat that the promotion of all UNIDROIT instruments should be regarded as indispensable and, as such, should enjoy the highest priority in the years 2014-2016 in terms of human and financial resources devoted to that activity. This is all the more true for the Conventions of which UNIDROIT has been designated as Depositary. While the Secretariat should, in an ideal world, cover all the instruments prepared and adopted by the Organisation, it is compelled, for lack of resources, to establish priorities in its promotional activities, sometimes based on a positive momentum, and resort, as much as possible, to partnerships with other interested Organisations.

4. The promotion of the **2009 UNIDROIT Convention on Substantive Rules for Intermediated Securities** is closely linked to the work on the drafting the Legislative Guide containing principles and rules capable of enhancing trading in emerging markets, which priority has been elevated by the Governing Council at its 92<sup>nd</sup> session in 2013 from Medium/Low to Medium, following the adoption of the Principles on Close-Out Netting. See document C.D.(94) 6.

5. On 10 September 2014, Australia acceded to the **1973 Convention providing a Uniform Law on the Form of an International Will** that entered into force for Australia on 10 March 2015. All states and territories have passed legislation to give effect to the Convention.

6. At its 92<sup>nd</sup> session in 2013, the Governing Council agreed that the Secretariat should continue providing promotion the highest level of priority, indicating some instruments, among which: (a) the UNIDROIT Principles of International Commercial Contracts 2010; (b) the Cape Town Convention and its Aircraft Protocol and (c) the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects and UNESCO/UNIDROIT Model Provisions on State Ownership of Undiscovered Cultural Objects.

## **I. UNIDROIT PRINCIPLES OF INTERNATIONAL COMMERCIAL CONTRACTS 2010**

### **A. Conferences, seminars, courses**

7. The UNIDROIT Principles 2010 formed the subject of presentations at events organised for the benefit of relevant academic and commercial circles. For a complete list for 2014 see the Annual Report in UNIDROIT 2014 – C.D. (94) 2 at pages 17 and 18.

8. In addition, the following presentations have already taken place in 2015:

(a) On 8 January 2015 the Deputy Secretary-General Anna Veneziano gave a lecture on 'The UNIDROIT Principles of International Commercial Contracts' at the Graduate School of the University of Nagoya (Japan), upon the invitation of Professors Dai Yokomizo and Yoshiharu Matsuura.

(b) On 19 February 2015 the Deputy Secretary-General Anna Veneziano participated in the seminar *Investments Security In Nord Africa* organised by the Società Italiana per l'Organizzazione Internazionale (SIOI) and the Italian Foreign Ministry in Rome with a contribution entitled 'I Principi UNIDROIT dei contratti commerciali internazionali come ausilio alla contrattazione transfrontaliera'. The contribution was published in a book edited by Alfredo Rizzo (*Investment Security in Nord Africa*, ESI, Naples, 2015).

(c) On 25 February 2015, a two-hour program on "The 2010 UNIDROIT Principles of International Commercial Contracts" took place in New York, London, Paris, Berlin, Frankfurt, and Washington D.C. It was organized by the New York Branch of the Chartered Institute of Arbitrators (CI Arb) and Squire Patton Boggs, in association with ICC/SICANA, Inc., New York International Arbitration Center (NYIAC), the College of Commercial Arbitrators (CCA), and the CI Arb European Branch and Washington D.C. Chapter. The program was introduced by Peter Michaelson, chair of CI Arb New York Branch, and moderated by Richard Mattiaccio, the Squire Patton Boggs partner and chair of the Programming Committee of CI Arb New York Branch who organized the program. M.J. Bonell (UNIDROIT), E. Brödermann (Hamburg), N. Cohen (New York) B. Fauvarque-Cosson (Paris), H. Gabriel (Greensboro, North Carolina) and A. Garro (New York) made presentations on specific topics and answered questions from an audience composed of experts in international commercial law and disputes. Speakers and participants were connected through video-conferencing between six Squire Patton Boggs offices. Additional participants from all around the world followed the live program online. It was the occasion for a lively introduction to key provisions and to the actual and potential use of UNIDROIT Principles in cross-border commercial disputes and in the development of commercial law in civil, common law and developing legal systems. The multi-location program attracted approximately 150 participants and reflected growing interest in the 2010 UNIDROIT Principles on both sides of the Atlantic.

(d) On 9 April 2015, Legal Officer Neale Bergman gave a five-hour lecture on "The International Institute for the Unification of Private Law and the UNIDROIT Principles of International Commercial Contracts" at the University of Turin's Faculty of Law to roughly 25 students from around the world enrolled in a Master of Laws (LL.M) programme on international trade law at the International Training Centre of the International Labour Organization (ITC-ILO). The ITC-ILO's partners in the LL.M programme include the University of Turin, the University Institute of European Studies, and UNCITRAL.

## **II. CAPE TOWN CONVENTION AND AIRCRAFT PROTOCOL**

### **A. State of ratification**

9. UNIDROIT has been designated Depository of the Cape Town Convention in accordance with Article 62(1) of the Convention and under Article XXXVII(1) of the Aircraft Protocol, which entered into force on 1 March 2006. On 15 April 2015, the Convention was ratified or acceded to by 64 Contracting States and 1 Regional Economic Integration Organisation and the Aircraft Protocol by 57 Contracting States and 1 Regional Economic Integration Organisation (see ANNEXE II of the Annual Report, C.D.(94) 2, p. 36).

10. Since the last session of the Governing Council, the following four States have deposited their instruments of ratification or accession to the Convention and to the Aircraft Protocol: Bhutan, Egypt, San Marino and Viet Nam. In addition, Burkina Faso and Côte d'Ivoire deposited their instruments of accession to the Convention (only).

### **B. Conferences and seminars**

11. In 2014 the Cape Town Convention and its Aircraft Protocol were the object of a number of conferences and seminars, including:

(a) on 27 February 2014 a seminar entitled 'Ratificación por España del Convenio de Ciudad del Cabo relative a las garantías sobre bienes de equipo móvil y sus protocolos', organised by the Universidad Autonoma de Madrid (UAM) and the Colegio de Registradores de España (Madrid), with participation of the UNIDROIT Secretary-General;

(b) on 22 July 2014 the session devoted to "Security interests burdening transport vehicles – The Cape Town Convention and its implementation in national law" within the International Academy of Comparative Law (IACL), held in Vienna on 20-27 July 2014 (general reporter Souichirou Kozuka), with participation of the UNIDROIT Deputy-Secretary General as reporter for Italy;

(c) on 9-10 September 2014 the 3<sup>rd</sup> annual Conference of the Cape Town Convention Academic Project, held in Oxford with the active participation of academics, practicing lawyers and governmental experts from various jurisdictions;

(d) on 16 September 2014 a seminar entitled "European Seminar on Cape Town Convention and its Aircraft Protocol: Advancing Ratification and Implementation" jointly organised by the Aviation Working Group (AWG), UNIDROIT and the Civil Aviation Authority of the Republic of Poland and held in Warsaw.

For more details on all these events see the Annual Report 2014 (C.D.(94) 2).

12. On 9 March 2015, an International Conference on the Promotion of the Cape Town Convention in China was held in Macau. It was organised by the University of Macau, UNIDROIT and the Macau Foundation. The conference counted among the speakers the UNIDROIT President Prof. Alberto Mazzoni, the UNIDROIT Secretary-General José Angelo Estrella-Faria, the Dean of the Macau Law Faculty Prof. John Shijian Mo, the former Deputy-Secretary General Martin Stanford, Prof. Zhao Yun, Prof. Sun Lin and Dr. Yu Dan. The Convention and its Protocols (Aircraft, Rail and Space) were presented and relevant outstanding issues relating to the application of the Cape Town Convention and its Aircraft Protocol in China were addressed.

13. On 25 March 2015, the UNIDROIT Secretary-General joined representatives of the Aircraft Working Group in consultation meetings with representatives of the Spanish Ministry of Justice and

the Ministry of Development in Madrid. These consultations represented a significant step forward in the ratification process of the Aircraft Protocol to the Cape Town Convention in Spain.

14. The promotion of the Cape Town Convention and its Aircraft Protocol will continue to enjoy the highest priority in the course of 2015 and 2016. Among other initiatives, the 4<sup>th</sup> annual Conference of the Cape Town Convention Academic Project will take place in Oxford on 8-9 September 2015.

### **III. UNIDROIT Convention on Stolen or Illegally exported Cultural Objects and UNESCO/UNIDROIT Model Provisions**

#### **A. State of ratification**

15. The 1995 Convention entered into force in 1998 and on 24 April 2015 has 37 Contracting States (see Annex II of the Annual Report, C.D. (94) 2, p. 35). Since the last session of the Governing Council, Angola (deposit on 19 June 2014, entry into force on 1 December 2014) and Algeria (deposit on 9 April 2015, entry into force on 1 October 2015) have deposited their instruments of accession with the Italian Government. South Africa and Syria are expected to deposit their instrument of accession soon.

16. The attendance of a UNIDROIT representative at the regional workshops organised by UNESCO in 2014 and at those that have taken place in 2015 so far, has made it possible to re-activate ratification procedures or to instigate studies with this in mind. Morocco has officially announced its decision to become Party to the 1995 Convention after a regional seminar held in April 2015 in Meknes.

#### **B. Seminars, conferences**

17. The UNIDROIT Secretariat has in the last years received a considerable number of requests for information and assistance on the 1995 Convention and on the UNESCO-UNIDROIT Model Provisions on State Ownership of Undiscovered Cultural Objects. In particular, UNESCO organised a series of regional seminars in which UNIDROIT was invited to participate (see the list of meetings in 2014 in the Annual Report, C.D. (94) 2, pp. 20-21). Other seminars have taken place in 2015 or are planned in the months to come, organised by or in cooperation with UNESCO (for example, in Botswana to launch the Southern African Development Community Heritage Association within SADC (in March 2015), and possibly in Vanuatu for a regional workshop) or by member or non member States (in particular, a Ministerial Conference entitled "Culture under Threat: the Security, Economic and Cultural Impact of Antiquities Theft in the Middle East" organised by the Egyptian Government in Cairo on 13 and 14 May 2015, a workshop dedicated to the ongoing procedure of accession to the 1995 Convention in Mongolia, in June 2015, and the Fifth International Expert Conference on the Return of Cultural Objects, organised by the Turkish Ministry of Culture, which will take place in October 2015).

18. On 12 February 2015, the UN Security Council unanimously passed an important new Chapter VII resolution – Resolution 2199 – to respond to terrorist groups in Iraq and Syria. This Resolution condemns unanimously the destruction of cultural heritage in Iraq and Syria, and adopts legally binding measures to combat the illicit trafficking of antiquities and cultural objects from these countries. It also notes that terrorist groups are generating income from illegally removing artifacts from both countries during periods of conflict *and* that such funding is being used to support recruitment efforts and to strengthen operational capability to organize and carry out terrorist attacks. The resolution reaffirms an existing ban on antiquities illegally removed from Iraq since 6 August 1990 (Resolution 1483 adopted in 2003), and extends the prohibition of trade of

cultural objects illegally removed from Syria since 15 March 2011. It also sets the basis for cooperation with INTERPOL and UNESCO and other organisations. It goes on to call upon UNESCO, Interpol, and other international organizations, as appropriate, to assist in the implementation of this paragraph.

19. UNESCO Director-General Irina Bokova convened a high level meeting in Paris on 1<sup>st</sup> April 2015 to map out the effective implementation of the Resolution. It was attended by representatives from ICOM (International Council of Museums), ICOMOS (International Council on Monuments and Sites), ICCROM (International Centre for the Study of the Preservation and Restoration of Cultural Property), IFLA (International Federation of Library Associations), INTERPOL, UNODC (United Nations Office on Drugs and Crime), UNIDROIT and WCO (World Customs Organization), as well as the Analytical Support and Sanctions Monitoring Team of the Security Council Al-Qaida Committee (SMT). The road map adopted at the meeting includes the promotion of ratification and implementation of the 1995 UNIDROIT Convention.

### **C. 20<sup>th</sup> anniversary of the 1995 UNIDROIT Convention**

20. UNIDROIT will celebrate the 20<sup>th</sup> anniversary of its 1995 Convention with an International Conference to be held on 8 May 2015 at the Musei Capitolini in Rome. The programme of the Conference is to be found in ANNEXE I. The Conference has attracted a high interest and UNIDROIT had to stop registration two weeks in advance of the deadline indicated. It has therefore decided to make a video of the Conference to post on the website after the Conference.

21. This anniversary provides an opportunity to assess the significance, the distinctive features and operational aspects of this normative instrument and its interaction with others, including the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and the 2014 European Directive on the return of cultural objects unlawfully removed from the territory of a Member State. It is important, in this context to acknowledge that essential rules are already in place, and that focus is now required in ensuring that they are better known and applied.

22. UNIDROIT will also organise, together with the Italian Ministry of Foreign Affairs and International Cooperation, the SIOI (Società Italiana per l'Organizzazione Internazionale) and the Second University of Naples, a Conference entitled "The 1995 UNIDROIT Convention Twenty Years after its Adoption: the Mediterranean as a Testing Ground". The Conference will take place at the SIOI Headquarters in Rome on 12 May 2015 and is organised within the events to celebrate the 60<sup>th</sup> anniversary of the accession of Italy to the United Nations. See the programme in ANNEXE II.

### **C. Partnerships**

23. UNIDROIT continues to collaborate with other organisations such as among others INTERPOL (member of its Committee on Stolen Objects), UNODC, WCO (with ARCHEO network) and ICOM (Observatory on Illicit Traffic), and is currently developing other partnerships, in particular with ICCROM (the International Centre for the Study of the Preservation and Restoration of Cultural Property), intergovernmental organisation based in Rome, which is also active in the fight against illicit trafficking in cultural goods.

24. UNIDROIT is participating in a course of cultural law of the Postgraduate Center of the University of Vienna in which a module focuses on relevant international conventions among which the 1995 UNIDROIT Convention. UNIDROIT has also been approached to be a partner in the creation of a UNESCO Chair at the Università degli Studi Roma Tre to develop as from 2015 and for a period of four years a course on the international protection of cultural heritage.

## ANNEXE I

**PROGRAMME**  
as of 29 April 2015

**SALA PIETRO DA CORTONA – MUSEI CAPITOLINI**  
**PIAZZA DEL CAMPIDOGLIO, 1**  
**00186 ROME**

9.15 – 9.40      **Opening Session <sup>1</sup>**

*H.E. Mr Dario Franceschini*, Minister, Italian Ministry of Heritage and Cultural Activities and Tourism

*Mr Alfredo Pérez de Armiñan*, Assistant Director-General for Culture, UNESCO

*Ms Giovanna Marinelli*, Deputy for Cultural Affairs at the Municipality of Rome

*H.E. Ambassador Nassif HITTI*, Head of Mission of the Arab League to Italy

*Prof. Alberto Mazzoni*, President of UNIDROIT

9.40 – 10.45

**I. The context – the birth of a convention**

Moderator – Prof. Alberto Mazzoni

***Difficulties in private international law relating to the restitution of cultural objects***

*Prof. Kurt Siehr*, Professor emeritus of the University of Zürich, Max Planck Institute of Comparative and International Private Law in Hamburg

***The starting point, the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property***

*Mr Edouard Planche*, Programme Specialist, Section for Cultural Heritage Protection Treaties, Division for Heritage, UNESCO

***Italian Policies for the Restitution of Illicitly Trafficked Cultural Heritage, based on the Rule of Law and International Cooperation***

*Mr Francesco Rutelli*, President of *Priorità Cultura*

***The experience of the United States of America in fighting illicit trafficking in cultural property***

*Ms Maria P. Kouroupas*, Director, Cultural Heritage Center, U.S. Department of State

10.45 – 11.15

**Coffee Break**

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<sup>1</sup> The Musei Capitolini open at 9 a.m. (only for the Conference)

11.15 – 13.00

## II. The built – an enhanced protection

Moderator - Mr Alfredo Pérez de Armiñan

### ***The UNIDROIT Convention – Remarks on the dynamics of sources in international law***

*Prof. Jean-Sylvestre Bergé*, Université Jean Moulin - Lyon 3 (EDIEC – GDR CNRS ELSJ)

### ***Archaeological objects***

*Dr Maamoun Abdulkarim*, Director General, Antiquities and Museums, Syria (DGAM)

*Prof. Spyridon Vrellis*, Emeritus Professor, University of Athens; Director of the Hellenic Institute of International and Foreign Law, Athens

### ***Ecclesiastic objects***

*Mr Sandro Barbagallo*, Curator of the Department of Historical Collections, Vatican Museums

*Mr José Angelo Estrella Faria*, UNIDROIT Secretary-General

### ***Private collections***

*Mr Marc-André Haldimann*, Associated Researcher, University of Bern; Mediterranean Archaeology Expert

*Mr Jorge Sánchez Cordero*, Director of the Mexican Center of Uniform Law; Vice President of the International Academy of Comparative Law

13.00 – 14.15

**Light Lunch offered (Terrazza Caffarelli)**

14.30 – 17.30

## III. The influence – beyond the 1995 Convention

Moderator – Mr José Angelo Estrella Faria

*H.E. Mrs Laurence Argimon-Pistre*, Ambassador, Head of the EU Delegation to the Holy See, the Order of Malta and the UN Organizations in Rome

### ***The international development of case law and practice on the restitution of cultural objects***

*Prof. Manlio Frigo*, University of Milan, Member of the ILA Heritage Law Committee

### ***About the adoption of the “Restitution Directive”, the interaction between European Union law and international law***

*Prof. Marie Cornu*, Director of Research, CNRS, France, Member of the ILA Heritage Law Committee

### ***Roundtable on “due diligence”***

*Mr Fabrizio Panone*, Criminal Intelligence Officer, Works of Art Unit, INTERPOL

*Mr Giampiero Romano*, Comando Carabinieri Tutela Patrimonio Culturale

*Mr Jean-Claude Gandur*, Chairman, Fondation Gandur pour l’Art

*Mr Roberto Rossi*, Public Prosecutor, Member, Rome Superior Council of Magistracy

*Mr Stefano de Caro*, Director General, ICCROM

### **Discussion**

17.30 – 18.00

**Closing Session**

19.00

**Reception (Embassy of Brazil – personal invitation)**





*Motto of the diplomatic Conference for the adoption of the 1995 Convention*

*Under the patronage of*



*With the support of*



*and of*

Société Internationale pour la Recherche sur le droit du patrimoine culturel et le droit de l'art

**ANNEXE II****The 1995 UNIDROIT Convention Twenty Years after Its Adoption: the Mediterranean as a Testing Ground****Rome, 12 May 2015**

SIOI – Piazza di San Marco, 51

**9.30 Opening Session**

Franco Frattini, President of SIOI

Alberto Mazzoni, President of UNIDROIT

Giuseppe Paolisso, Rector of the Second University of Naples

Umberto Leanza, Head of the Italian Delegation to the Conference for the Adoption of the UNIDROIT Convention

**10.00 The Protection of Cultural Objects in Crisis Situation: the UNIDROIT Convention of 1995 and beyond***Moderator:* Andrea Tiriticco, Head of the Legal Service of the Italian Ministry of Foreign Affairs*Speakers:*

Francesco Francioni, Professor of International Law, European University Institute

Tullio Scovazzi, Professor of International Law, University of Milan Bicocca

Mauro Politi, Professor of International Law, University of Trento

**11.00 The Protection of Cultural Objects in Crisis Situations: Practical Experience in the Mediterranean Region***Introduction:* Mounir Bouchenaki, Director of the Arab Regional Centre for World Heritage - Bahrein*Moderator:* Ida Caracciolo, Professor of International Law, Second University of Naples*Speakers:*

Stefano de Caro, ICCROM Director-General

Raymond Bondin, UNESCO Expert for World Heritage

Serenella Ensoli, Director of the Italian Archaeologic Mission in Cirene, Second University of Naples

Luigi Cortellesa, Deputy Head of the Carabinieri Headquarters for the Protection of Cultural Heritage

Manuela Ruosi, Counsellor, Directorate General for the Country Promotion, Italian Ministry of Foreign Affairs (to be confirmed)

*Synthesis:* Aernout van Woudenberg, Kingdom Affairs Advisor of the Ministry of Foreign Affairs of the Netherlands**12.45 Conclusions**

José Angelo Estrella Faria, UNIDROIT Secretary-General