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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 2015 (C.D. (95) 2)</i>

1. At its 91st 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 last sessions, 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 conferences organised to celebrate the 90th anniversary of UNIDROIT were also an opportunity to promote the various instruments adopted under the auspices of the Organisation, as well as to focus on partnerships with other organisations committed to their development. Indeed, in their statement at the opening session of the Special Session of the UNIDROIT General Assembly, several States have given their support to the Organisation and its work, focusing on the importance of the instruments adopted under its auspices.¹

5. 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 92nd session in 2013 from Medium/Low to Medium, following the adoption of the Principles on Close-Out Netting. See document C.D.(95) 6.

6. At its 92nd 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

¹ See the various events organised, and in particular that on 20 April 2016 (with a video of the Conference), at the following page: <http://www.unidroit.org/unidroit-90th-anniversary>

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 2015 see the Annual Report in UNIDROIT 2015 – C.D. (95) 2 at pages 17 and 18.

8. In addition, the following presentations have already taken place since mid-October 2015:

(a) On 19-20 October 2015 the Secretary-General participated in the Ibero-American Congress of International Business Law's event, which was entitled "360° of international sales of goods" and organised in Bogotá, Colombia in recognition of the 35th anniversary of the UN Convention on Contracts for the International Sale of Goods (CISG), at which he made a presentation on the UNIDROIT Principles and their use as a model.

(b) On 4 November 2015 the Secretary-General delivered a lecture at an event entitled "the UNIDROIT Principles of International Commercial Contracts" and organised by the Center for the Study of Law, Economics and Politics (CEDEP) and the International Chamber of Commerce (ICC Paraguay).

(c) On 9-11 November 2015 the Secretary-General lectured on transnational commercial law at the Faculty of Law of the Federal University of Rio Grande do Sul, which *inter alia* addressed the UNIDROIT Principles at length.

(d) On 16-17 November 2015 the Secretary-General participated in an event at the Pontifical Catholic University of Rio de Janeiro entitled "The UNIDROIT Principles and Brazilian Contract Law". The first day consisted of a conference on the UNIDROIT Principles and Brazilian contract law, and the second day consisted of a workshop on "hot topics" of the UNIDROIT Principles, in particular interpretation of international contracts, hardship and force majeure, losses and damages, and termination.

(e) On 1-2 December 2015 the Secretary-General participated in an international conference entitled "35 Years of the CISG – Present Experiences and Future Challenges" and organised by the UNCITRAL Secretariat and the University of Zagreb, Faculty of Law, at which he presented on the interplay between the CISG and the UNIDROIT Principles.

(f) On 23 February 2016, the President of UNIDROIT, Mr Alberto Mazzoni, made a presentation at an event entitled "Could the UNIDROIT Principles solve the battle between Common Law jurisdictions and other jurisdictions in international arbitration? If so, how?" and organised by the Stockholm Centre for Commercial Law at Stockholm University.

(g) On 15 April 2016 the President and the Secretary-General participated in an event entitled "Practicing International Law at the United Nations" and organised at UNIDROIT's seat by the Secretariat and the Italian Society for the International Organization (SIOI) as part of UNIDROIT's 90th Anniversary Celebration Series, at which *inter alia* the importance of the UNIDROIT Principles was discussed by the panellists and participants.

(h) On 7-8 April 2016 Legal Officer Neale Bergman delivered a lecture entitled “The International Institute for the Unification of Private Law and the UNIDROIT Principles of International Commercial Contracts” at the campus of International Training Centre of the International Labour Organization (ITC-ILO) to 32 students from around the world enrolled in the ITC-ILO’s Master of Laws (LL.M) programme on international trade law.

B. Publications

9. In 2015, versions in Romanian and Turkish of the full text of the UNIDROIT Principles 2010 were being prepared. Furthermore, an agreement was concluded with the Centro de Estudios de Derecho, Economía y Política (CEDEP) (Asunción, Paraguay), for printing and distributing the Spanish version of the Principles in Paraguay.

10. The publication of a Commentary on the UNIDROIT Principles 2010 in Arabic, edited by Professor Nisreen Mahasneh at Yarmouk University in Jordan, is imminent. This initiative originated at a conference co-organised by UNIDROIT for the presentation of the Arabic version of the UNIDROIT Principles in 2010 in Oman in 2014.

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 1 May 2016, the Convention was ratified or acceded to by 70 Contracting States and 1 Regional Economic Integration Organisation and the Aircraft Protocol by 63 Contracting States and 1 Regional Economic Integration Organisation (see Annexe II of the Annual Report, C.D.(95) 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: Australia, Denmark, Sweden and United Kingdom. In addition, Moldova deposited its instrument of accession to the Convention (only), and Côte d’Ivoire and Spain their instruments of accession to the Aircraft Protocol (only).

B. Conferences and seminars

11. Since the last session of the Council in 2015, the Cape Town Convention and its Aircraft Protocol were the object of a number of conferences and seminars, including (see also Annual Report 2015 (C.D.(95) 2 – p. 19):

- on 28 May 2015 the Italian Ministry of Foreign Affairs and International Cooperation organised a seminar on the prospects of ratification by Italy of the Cape Town Convention and its Protocols, with participation of invited governmental representatives, industry stakeholders and other interested institutions and authorities. Among the panelists were the UNIDROIT Secretary-General and Deputy Secretary-General, Prof. Sergio Marchisio (former Chairman of the Commission of the Whole at the diplomatic Conference convened for the adoption of the Space Protocol in Berlin in 2012 and current Chairman of the S

- on 15 October 2015, President Alberto Mazzoni, Secretary-General José Angelo Estrella-Faria, and Deputy Secretary-General Anna Veneziano delivered speeches concerning the Cape Town Convention and the Air and Rail Protocols thereto, at an event co-hosted with the Italian law firm

Rucellai & Raffaelli. The event, which took place at the host offices in Milan, was designed to inform lawyers, financing parties and industry members alike on the Convention and the potential advantages of an Italian ratification

- On 8-10 June and 24-26 August 2015 UNIDROIT participated in a workshop co-sponsored by the US Department of Commerce, Commercial Law Development Program (CLDP) and by the Iraqi Government to discuss the instruments of accession of Iraq to the Cape Town Convention and its Aircraft Protocol.

12. The promotion of the Cape Town Convention and its Aircraft Protocol will continue to enjoy the highest priority in the course of 2016 and 2017 and the Institute will continue its cooperation with the *Cape Town Convention Academic Project*.

III. UNIDROIT CONVENTION ON STOLEN OR ILLEGALLY EXPORTED CULTURAL OBJECTS AND UNESCO/UNIDROIT MODEL PROVISIONS ON STATE OWNERSHIP OF UNDISCOVERED CULTURAL OBJECTS

A. State of ratification

13. The 1995 Convention entered into force in 1998 and on 1 May 2016 has 37 Contracting States (see Annex II of the Annual Report, C.D. (95) 2, p. 35). Ghana, Laos, Morocco and Tunisia have finalised their internal procedure of accession to the Convention, so as South Africa and Syria, and should deposit their instruments of accession with the Italian Government. Other States are in the process of ratifying or acceding to the Convention.

B. 20th anniversary of the 1995 UNIDROIT Convention

14. UNIDROIT celebrated the 20th anniversary of its 1995 Convention with an International Conference held on 8 May 2015 at the Musei Capitolini in Rome. The Conference has attracted a high interest and UNIDROIT therefore posted a video of the Conference on the website which can be found at the following link: <http://www.unidroit.org/conferences-and-seminars/previous-years>. The contributions of most speakers have been published in the Uniform Law Review 4 2015.

15. UNIDROIT also organised, 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 took place at the seat of SIOI in Rome on 12 May 2015 and was organised among the events to celebrate the 20th anniversary of the 1995 UNIDROIT Convention and the 60th anniversary of the accession of Italy to the United Nations.

C. Institutional and Academic Partnerships

16. UNIDROIT maintains since many years excellent co-operation with UNESCO, which has always strongly supported the 1995 UNIDROIT Convention and with which the Institute developed the Model Provisions on State ownership of Undiscovered Cultural Objects in 2011. At the request of UNESCO, the UNIDROIT officer in charge of the instruments relating to the protection of cultural heritage stayed for six months at UNESCO Headquarters in Paris as a consultant. During her stay, she was able to raise awareness in many countries and reactivate procedures of ratification or accession to the UNIDROIT Convention. Several national and regional awareness-raising workshops on the UNESCO 1970 Convention and 1995 UNIDROIT also took place in 2015-2016 (see section D below).

17. In partnership with the *Conseil des Ventes Volontaires* (CVV), the regulatory authority for voluntary sales operators of movables by public auction in France, UNESCO organised a one-day round table, on 30 March 2016, focusing on the art market and its important role in the fight against illicit trafficking of cultural property². It was an opportunity in general to increase dialogue between art market players, those responsible for heritage protection and specialised international organisations in particular relating to claims of archaeological objects, and especially for UNIDROIT to answer the objections raised by the art market for years about the 1995 Convention. If the effort pursued by the art market for some years to establish control and monitoring instruments was recognised, UNESCO and its partners wish today that market participants go further in ensuring the legal origin of all archaeological property offered to buyers.

18. Also under the auspices of UNESCO UNIDROIT continued its collaboration with the working group set up for the implementation of Resolution 2199 of the UN Security Council adopted in February 2015 condemning the destruction cultural heritage in Iraq and Syria, and adopting binding measures to combat the smuggling of antiquities and cultural objects from these countries (see document CD (94) 8, paragraphs 18 and 19). UNIDROIT is about to collaborate with the Council of Europe that has decided to develop a new criminal law convention on the fight against illicit trafficking of cultural property and whose works will begin in late May 2016.

19. UNIDROIT also continues to work with other organisations, including INTERPOL (member of the Committee on Stolen Objects), UNODC, WCO (ARCHEO network), ICCROM or ICOM (International Observatory illicit traffic of cultural property), and is developing other partnerships, particularly with universities and research centres. UNIDROIT participates in fact, for example, in a course on cultural law organised by the Postgraduate Center at the University of Vienna (module on international conventions on the subject including the 1995 UNIDROIT Convention) and collaborates in the creation of a UNESCO Chair at the University of Roma Tre to develop a course on the international protection of cultural property.

D. Seminars, conferences

20. 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, particularly because of the dramatic situation related to destruction and looting of cultural heritage in the Middle East. UNIDROIT has participated in a series of national and regional seminars on the subject after which it was recommended that States become parties to the 1995 Convention. See the list of meetings in 2015 in the Annual Report, CD (95) 2, p. 21.

21. Among the seminars and workshops UNIDROIT was invited to participate, the following can be noted:

- national workshop dedicated to the ongoing procedure of accession to the 1995 UNIDROIT Convention in Mongolia, Ulan Baator, June 2015
- expert meeting on the protection of cultural heritage of Yemen held at the UNESCO Headquarters in Paris, July 2015
- fifth International Expert Conference on the Return of Cultural Objects, organised by the Turkish Ministry of Culture, in Nevsehir in October 2015
- Training workshop on the Fight against the Illicit Trafficking of Cultural Property for Albanian stakeholders, co-organised by the Italian Carabinieri, held in Rome, 23 to 27 November 2015

² See the UNESCO website for the video at - <http://www.unesco.org/new/en/culture/themes/ illicit-trafficking-of-cultural-property/meetings/art-market-round-table/>

- Workshops on "[Building capacities on the fight against illicit trafficking of cultural objects: prevention, cooperation and restitution](#)" for Syria and Lebanon, held in Beirut (Lebanon), December 2015
- regional workshop on "Building Capacities on the Fight against Illicit Trafficking of Cultural Objects: Prevention, Cooperation, Restitution" held in Hanoi (Vietnam), December 2015
- conference '*The Return of Cultural Objects within the European Union – Implementing the Directive 2014/60/EU*' in the framework of the Heuright Heritage Plus, held in Warsaw, March 2016.

IV. ACTION TO BE TAKEN

22. *The Governing Council is invited to take note of the activities held by the Secretariat to promote UNIDROIT instruments.*