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**Item No. 10 on the agenda: Principles of Reinsurance Contracts (PRICL)  
and future work**

(prepared by the Secretariat)

<i>Summary</i>	<i>Report on the development of the PRICL Project</i>
<i>Action to be taken</i>	<i>The Governing Council is invited to take note of the progress of the work of the PRICL Working Group</i>
<i>Mandate</i>	<i>Work Programme 2017-2019; renewed for Work Programme 2020-2022</i>
<i>Priority level</i>	<i>Low</i>
<i>Related documents</i>	<a href="#"><u>UNIDROIT 2020 - C.D. (99) B.2;</u></a> <a href="#"><u>UNIDROIT 2019 - C.D. (98) 14 rev 2;</u></a> <a href="#"><u>UNIDROIT 2019 - C.D. (98) 17</u></a>

**I. HISTORY OF THE PROJECT**

1. In July 2015, the Secretariat was approached by a group of scholars and practitioners led by Professors Anton K. Schnyder and Helmut Heiss (University of Zurich, as "Lead Agency"), Martin Schauer (University of Vienna) and Manfred Wandt (University of Frankfurt), who were examining the feasibility of formulating "Principles of Reinsurance Contract Law". The purpose of the PRICL project was to formulate a "restatement" of existing global reinsurance law, which is largely embedded in international custom and usage, but is seldom the object of legislation. The project leaders expressed the view that the proposed instrument presupposed the existence of adequate rules of general contract law. Rather than attempting to re-create such rules, the proposed principles had to be drafted in such a way as to ensure consistency between the PRICL and the UNIDROIT Principles of International Commercial Contracts (UPICC) and, as a result, UNIDROIT was invited to participate. The Working Group included well-known experts from Belgium, Brazil, China, Germany, France, Great Britain, Italy, Japan, Singapore, South Africa and the United States. In addition, two advisory groups made up of representatives of the global insurance and reinsurance markets advised the research team. The project was entirely funded by the Swiss National Science Foundation, the German Research Foundation and the Austrian Research Promotion Fund.

2. At its 75<sup>th</sup> session on 1 December 2016, the General Assembly endorsed the recommendation of the Governing Council (GC) to include this topic in the UNIDROIT 2017-2019 Work Programme with a low level of priority. UNIDROIT has actively attended the project's workshops, with a view to support

the use of the UPICC as general contract law rules and explaining, as the case may be, their content and interpretation. Consistent with the announced timeline for the project, the PRICL – First Part (black-letter rules and comments) were presented to the Governing Council at its 98<sup>th</sup> session (Rome, 8-10 May 2019). The following topics were included: “Chapter I: General Part; Chapter II: Duties; Chapter III: Remedies; Chapter IV: Aggregation; Chapter V: Allocation”. The relationship of the PRICL to the UPICC was expressly addressed and explained in the Introduction, in the provisions on the choice of the applicable law and gap-filling, as well as in the Comments to each Principle, particularly in the section on Duties and Remedies (for more details see GC Report 2019 - [C.D. \(98\) 17](#), paras. 118 ff.). The Governing Council took note of the finalised version of the PRICL, commended their use of the UPICC as a model and as rules of general contract law, and authorised the Secretariat to refer to the text of the PRICL on the UNIDROIT Website once the publication was finalised (GC Report 2019 - [C.D. \(98\) 17](#), para. 129). The Working Group formally finalised the publication of the first part of the project and in December 2019 the PRICL were published online and can be accessed as [Version 1.0 of 2019](#).

3. The Working Group received funding from the Swiss National Science Foundation and the German Research Foundation for another triennium, as notified to the Secretariat in 2018. The topics scheduled to be addressed were: “Chapter VI: Back-to-back-cover; Chapter VII: Non-contractual liability clauses; Chapter VIII: Termination and recapture; Chapter IX: Limitation periods”. Due to the connections between a number of these topics and the UPICC, and the desirability of this second part of the PRICL to continue referring to the UPICC both in the general choice-of-law clause and in the specific black-letter rules and comments, the PRICL Working Group asked UNIDROIT to continue its involvement under the same conditions as before (i.e., in-kind contribution through participation in the biannual Working Group meetings). The continuation of the project for the Work Programme 2020-2022 was approved by the UNIDROIT Governing Council at its 98<sup>th</sup> session and adopted by the General Assembly at its 78<sup>th</sup> session.

## II. CURRENT STATUS OF THE PROJECT

4. The 8<sup>th</sup> Workshop of the project was held remotely on 18 January 2021. The Workshop, chaired by Professor Helmut Heiss, discussed preliminary documents related to the second part of the PRICL project, in particular a draft paper on “Reinsurer Liabilities for Excess of Policy Limits and for Extra-Contractual Obligations”. The Workshop also featured a presentation by the UNIDROIT Secretary-General and Deputy Secretary-General on the [Note on the UNIDROIT Principles of International Commercial Contracts and the COVID-19 Health Crisis](#), which was followed by a discussion on the possibility to develop a Note on PRICL and COVID-19. For more information on the Workshop and on the Note on PRICL and COVID-19 please see C.D. (100) B.16, paras. 6-9.

## III. PROMOTIONAL ACTIVITIES

5. The PRICL Working Group has undertaken a number of activities for the promotion of the PRICL First Part. In particular, the [PRICL website](#) contains unofficial translations of the instrument in Japanese, Spanish and Turkish, as well as a list of publications and presentations on the PRICL. Moreover, on 17 September 2020, the *Association Internationale de Droit des Assurances* (AIDA) Europe, in cooperation with the PRICL Project Group, the AIDA Reinsurance Working Party and the AIDA Dispute Resolution Working Party set up a PRICL Mock Arbitration to examine the application of the PRICL in a live environment with arguments presented by the parties in front of a single arbitrator and with a legal opinion for the case, rendered by an Advocate General. For more information see <https://aidainsurance.org/meetings/pricl-mock-arbitration-2020-09-17>.

6. Other events featuring the Secretariat included:

- a closing speech by the UNIDROIT Secretary-General on the PRICL, held at the II International Congress of Insurance Law, co-hosted by ICADE Business School, the Faculty of

Economics and Business Administration at Comillas Pontifical University and the Uria-Menendez Law firm (9 October 2020);

- a presentation by the Secretary-General entitled “UNIDROIT Principles, reinsurance contracts and the pandemic at a Webinar hosted by the Italian Institute for the Supervision of Insurance on CAT Bonds (19 May 2021);

- the second lecture in the Transatlantic Lectures on Insurance Law (ATILA) series organised by the Insurance Law SIG at the European Law Institute, in cooperation with the PRICL Working Group, which was dedicated to the illustration of the application of the PRICL to the COVID-19 Health Crisis and saw the participation of the Secretary-General and the Deputy Secretary-General (27 May 2021). For more information and the link to the video of the conference see C.D. (100) B.16, para. 8.

7. The Principles of Reinsurance Contract Law and the role of UNIDROIT and the UPICC in their development are one of the topics of a forthcoming article by Governing Council Member Professor Luc Schuermans and PRICL Working Group member Professor Herman Cousy.

#### **IV. ACTION TO BE TAKEN**

8. *The UNIDROIT Secretariat would invite the Governing Council to take note of the progress of the project.*