



EN

**GOVERNING COUNCIL
100th session (B)
Rome, 22-24 September 2021**

UNIDROIT 2021
C.D. (100) B.17
Original: English
August 2021

Item No. 14 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 2020-2022</i>
<i>Priority level</i>	<i>High</i>
<i>Related document</i>	<i>Annual Report 2020 – C.D. (100) B.2</i>

I. INTRODUCTION

1. At its 98th session (Rome, 8-10 May 2019), the Governing Council recalled the importance of promoting the instruments of the Institute and hence to maintain the high priority of promotion activities in the UNIDROIT Work Programme for the 2020-2022 triennium. The General Assembly approved this recommendation at its 78th session (Rome, 12 December 2019). In accordance with said decisions, the promotion of all UNIDROIT instruments should be regarded as indispensable and, as such, was meant to enjoy the highest priority in the years 2020-2022 in terms of both the human and the financial resources devoted to that activity. This is also applicable to the Conventions of which UNIDROIT has been designated as Depositary. While the Secretariat should ideally cover all the instruments prepared and adopted by the Institute, it is compelled, due to lack of resources, to establish priorities in its promotional activities, sometimes based on a positive momentum, and resort to partnerships with other interested organisations as much as possible.

2. As the UNIDROIT Secretariat is increasingly requested to make presentations and disseminate its work, whether it is on the harmonisation of the law in general or on particular topics, UNIDROIT seeks to respond positively as much as possible within its resources. Naturally, due to the special circumstances created by the COVID-19 pandemic, the dissemination of UNIDROIT's work has been undertaken mostly in remote mode. While this entails a limitation on the efficacy of promotional activities, it also allows for an increase in the amount and a decrease in its costs for the Institute. It is envisaged that, at least in the short-mid term, remote promotional actions will continue to take place.

3. The present document provides information on promotion activities organised by, or with participation of, the Secretariat or Governing Council Members from **January 2021 onwards**, including planned events, regarding the following instruments:

- [UNIDROIT Principles of International Commercial Contracts 2016](#);
- [Cape Town Convention on International Interests in Mobile Equipment](#) and its [Aircraft Protocol](#);
- [UNIDROIT/FAO/IFAD Legal Guide on Contract Farming](#);
- [ELI-UNIDROIT Model European Rules on Civil Procedure](#);
- UNIDROIT instruments on Capital Markets ([Geneva Convention](#), [UNIDROIT Legislative Guide on Intermediated Securities](#), [Principles on the Operation of Close-Out Netting Provisions](#)); and
- [Convention providing a uniform Law on the Form of an International Will](#).

4. For information on promotion activities in regard to the 1995 Rome Convention, the Principles of Reinsurance Contract Law (PRICL – I Part), the MAC Protocol, the Luxembourg Rail Protocol and the Space Protocol please see, respectively, documents C.D. (100) B.15; C.D. (100) B.13; C.D. (100) B.11; C.D. (100) B.10.

5. Moreover, please note that all activities undertaken in the course of 2020 are included in the Annual Report 2020 (UNIDROIT 2021 – C.D. (100) B.2).

II. UNIDROIT PRINCIPLES OF INTERNATIONAL COMMERCIAL CONTRACTS 2016

A. Endorsement of the UNIDROIT Principles by UNCITRAL

6. At its [54th Session](#), held in Vienna and remotely on 28 June-16 July 2021, the United Nations Commission on International Trade Law (UNCITRAL) discussed a request presented by the UNIDROIT Secretary-General that the Commission consider endorsing the UNIDROIT Principles 2016. The Commission, noting that it had already endorsed the UNIDROIT Principles 2010 at its 45th session, in 2012, that general support had been expressed for recognising that the fourth edition of the UNIDROIT Principles set forth a comprehensive set of rules for international commercial contracts, complementing a number of international trade law instruments, including the United Nations Sales Convention, that the amendments made in the UNIDROIT Principles 2016 were useful in facilitating international trade, it endorsed the UNIDROIT Principles 2016 commending their use, as appropriate, for their intended purposes.

B. Promotion activities

7. The UNIDROIT Principles 2016 were presented or will be presented at various events organised for the benefit of relevant academic and commercial circles during 2021, with participation of the Secretariat:

- On 4 May 2021, Deputy Secretary-General Anna Veneziano participated in the launch of the volume "Choice of Law in International Commercial Contracts – Global Perspectives on the Hague Principles" edited by Daniel Girsberger, Thomas Kadner Graziano and Jan Neels, to which she had contributed a special Report (see below, publications). The event featured presentations of, among others, UNCITRAL and HCCH representatives as well as present and former UNIDROIT Governing Council Members (Professors Eesa A. Fredericks, Jan L- Neels,

José A. Moreno Rodríguez).

- On 7 May 2021, the Deputy Secretary-General delivered a lecture on the UNIDROIT Principles of International Commercial Contracts (UPICC) in the 9th Edition of the Business and Company Law Masters of LUISS University (Rome). On 8 January 2021, Ms Philine Wehling (Legal Officer, UNIDROIT) delivered a lecture via videoconference to the postgraduate students from the International Training Centre of the International Labour Organization (ITC-ILO) in Turin. The lecture addressed the legal implications of the COVID-19 pandemic and governmental containment measures on the performance of international commercial contracts in light of the UNIDROIT Principles of International Commercial Contracts.

- On 17-19 March 2021, Ms Philine Wehling, UNIDROIT Legal Officer, delivered an online lecture on “International Sources of Contract Law: the UNIDROIT Principles of International Commercial Contracts” to postgraduate students of the ITC-ILO. The lecture was part of the 2020-2021 edition of the Master of Laws in International Trade Law programme, which is co-organised by the ITC-ILO, the University of Turin and the University Institute of European Studies in collaboration with the Turin School of Development. Among the topics covered during the three days were: UNIDROIT’s mandate and working methods; the UNIDROIT Principles, including their content and application; and the influence of the Principles on ongoing projects. The lecture continues the collaboration with the ITC-ILO’s LLM Programme in the promotion of UNIDROIT’s instruments and its ongoing work.

- UNIDROIT will be a co-sponsor of the 5th Symposium on Salient Issues in International Arbitration, organised by the Center on International Commercial Arbitration at the American University Washington College of Law directed by Professor Horacio A. Grigera Naón and the Institut Suisse de Droit Comparé, entitled “Does a Transnational Legal Order Exist in International Arbitration?”, which will take place on 10 November 2021 in Washington, DC. A call for papers was issued for the Symposium on a number of topics, expressly including the assessment, general outreach and application of the UNIDROIT Principles in arbitration. Prof. Michael Joachim Bonell and Dr Eleonora Finazzi Agrò submitted a contribution entitled “Does a Transnational Legal Order Exist in International Arbitration? The Case of the UNIDROIT Principles of International Commercial Contracts” which was accepted for the Conference.

8. Furthermore, the Secretariat participated in the following publications:

- The Deputy Secretary-General contributed with the Italian Report, together with Eleonora Finazzi-Agrò, in Alejandro Garro, José Angelo Moreno-Rodríguez, “Use of the UNIDROIT Principles to Interpret and Supplement Domestic Contract Law” (Springer Verlag, 2021).

- The Deputy Secretary-General contributed with a special Report in D. Girsberger, T. Kadner Graziano, J.L. Neels (Eds), “Choice of Law in International Commercial Contracts – Global Perspectives on the Hague Principles” (OUP, 2021).

9. Members of the UNIDROIT Governing Council have also participated in meetings or drafted articles/commentaries to promote the UNIDROIT Principles 2016, such as:

- Carmen Tamara Ungureanu discussed the UNIDROIT Principles in an article on force majeure, published in Romanian, available at: <http://pub.law.uaic.ro/ro/volume-publicate/2020/anale-uaic-tomul-lxvi-stiine-juridice-2020-nr.-i/drept-privat/carmen-tamara-ungureanu-fora-major-si-executarea-contractelor-de-comer-internaional>.

- Monika Pauknerová and Magdalena Pfeiffer are co-authors of the Chapter “UNIDROIT Principles as Reference for Uniform Interpretation of National Laws: Czech Republic”, p. 101 ff., in: Garro, A., Moreno Rodríguez, J.A. (ed), Use of UNIDROIT Principles to Interpret and Supplement Domestic Contract Law, Springer, Ius Comparatum – Global Studies in Comparative Law, Vol. 51, 2021.

- Luc Schuermans, together with Prof. Herman Cousy, wrote an article to be published in 2021 entitled “The effect of the UNIDROIT Principles in the proposed Book 5 of the (new) Belgian Civil Code and the role of UNIDROIT in the standardisation of reinsurance law”.

III. CAPE TOWN CONVENTION AND AIRCRAFT PROTOCOL

A. Ratification status

10. UNIDROIT was designated Depository of the Cape Town Convention in accordance with Article 62(1) of the Convention and of the Aircraft Protocol under Article XXXVII(1). As at 8 July 2021, the Convention counted 83 Contracting States and one Contracting Regional Economic Organisation, and the Aircraft Protocol 80 Contracting States and one Contracting Regional Economic Organisation.

11. Since the last Governing Council session, the Kyrgyz Republic has deposited its instrument of accession to the Convention and the Aircraft Protocol.

B. Conferences and seminars

12. The Secretariat has co-organised, and participated in, a number of promotional events on the Cape Town Convention and its Aircraft Protocol.

13. In respect of promotion activities which took place in 2021:

- On 22 April 2021, Secretary-General Ignacio Tirado participated in a round table on the Cape Town Convention in the context of the first International Conference on Secured Transactions Law organised by the Uria Menéndez – ICADE school of Market Regulation Law, hosted by the Universidad Pontificia Comillas (Madrid, Spain). The Secretary General contributed to the panel, which also featured Encarnacion Cordero Lobato (University of Castillo la Mancha), José Manuel Martín Osante (Pais Vasco University), with a presentation entitled “The Cape Town Convention: Point of no Return”.
- On 17 June 2021, the Secretary-General participated in an online panel organised by the Spanish Foundation for Law and Business Research (Fundación para la Investigación sobre el Derecho y la Empresa – FIDE). With co-panelist Iván Heredia Cervantes (UAM) and moderated by Francisco José Garcimartín Alférez (UAM), the panel focussed on the Cape Town Convention and Insolvency in the aircraft sector.

14. The promotion of the Cape Town Convention and its Aircraft Protocol will continue to benefit from the highest level of priority in 2021. Among the planned events the 10th Annual Conference of the Cape Town Convention Academic Project will take place in Cambridge, as an in-person meeting with the possibility of remote access, between 29 and 30 September 2021. The 10th Conference will focus on reflections on the past, present and future of the Cape Town Convention in its first 20 years, and on an in-depth analysis of some key topics in relation to enforcement of international interests, particularly when the debtor is insolvent. The Cape Town Convention Academic Project (CTCAP) is a partnership between UNIDROIT and the University of Cambridge Faculty of Law, with the Aviation Working Group as the Founding Sponsor. For more information: <https://ctcap.org/event/10th-cape-town-convention-academic-conference>.

IV. CONTRACT FARMING

15. On 28 January 2021, Legal Officer Ms Priscila Pereira de Andrade presented UNIDROIT's work and instruments in the area of Private Law and Agricultural Development to a group of students of the School of Law, University of Washington (UW), in the framework of the "Global Development Law & Policy Workshop", organised by Professor Ms Randi Hedin within the "Law of Sustainable Development Graduate Program". Among the topics covered was the UNIDROIT/FAO/IFAD Legal guide on Contract Farming.

16. On 27 January 2021, Deputy Secretary-General Anna Veneziano and Legal Officer Ms Priscila Pereira de Andrade delivered a joint lecture to the students of the Ph.D. Programme "Autonomia Privata, Impresa, Lavoro e Tutela dei diritti nella prospettiva europea e internazionale" at the Sapienza Università of Rome. The lecture was introduced by Professor Roberta Peleggi and addressed the role of UNIDROIT in the area of private law and agricultural development and the tripartite collaboration between UNIDROIT, FAO and IFAD for the elaboration of legal guidance instruments in this sector, with particular focus on the Legal Guide on Contract Farming.

17. On 26 April 2021, Deputy Secretary-General Anna Veneziano presented the Legal Guide on Contract Farming at an online seminar hosted by the University of Trento under the EU-FLAG (Food Law and Globalization) Jean Monnet module, which aims at developing a better understanding of European food law and how it interacts with the dynamics characterizing international markets, exploring the dialogic relationship existing between the rules of the agri-food sector and globalization. Moderated by Professor Matteo Ferrari, the seminar also featured presentations by Professors Paola Iamiceli and Luisa Antonioli.

V. ELI-UNIDROIT MODEL RULES ON CIVIL PROCEDURE

18. Following their approval in September 2020, the ELI-UNIDROIT Model Rules of European Civil Procedure have been presented and discussed at several events, including:

- Starting in 2020, the ELI-UNIDROIT European Rules of Civil Procedure were discussed in a series of lectures at the IE Law School (Madrid), entitled "Exploring the ELI-UNIDROIT Rules on Civil Procedure", as part of the Jean Monnet Chair in European Civil Procedure under the direction of Professor Marco de Benito, with participation of several project members, including the Deputy Secretary-General Anna Veneziano as Co-Chair of the Steering Committee of the project, and external discussants. More information on the whole series and particularly the events held or planned in 2021 at <https://civilprocedure.ie.edu/activities>.
- On the occasion of the ELI's 10th Anniversary, ELI hosted a webinar on the 'Future of Civil Procedural Law – ELI-UNIDROIT Model European Rules of Civil Procedure and Their Impact' on 20 July 2021, with participation of the Deputy Secretary-General Anna Veneziano, John Sorabj, and discussants Norel Rosner (Legal and Policy Officer, DG Justice and Consumers, Unit A1 Civil Justice) and Magdalena Tulibacka (Adjunct Professor, Emory Law).
- A promotional video celebrating the ELI's 10th anniversary will also feature references to the ELI-UNIDROIT European Rules of Civil Procedure, including the participation of Deputy Secretary-General Anna Veneziano.

19. The Oxford University Press hard-copy publication of the Model Rules and Comments in English is expected by summer 2021.

20. Finally, several non-official translations of the ELI-UNIDROIT Model Rules are underway: in particular, in Chinese, German, Spanish and Ukrainian.

VI. UNIDROIT INSTRUMENTS IN CAPITAL MARKETS

21. President Maria Chiara Malaguti and Secretary-General Ignacio Tirado had the opportunity to illustrate the Geneva Convention, UNIDROIT Legislative Guide on Intermediated Securities, as well as the Principles on the Operation of Close-Out Netting Provisions this year, thanks to a webinar hosted by the Bank of Italy on 22 January 2021.

VII. INTERNATIONAL WILLS CONVENTION

22. At its 99th session, a presentation was given to the Governing Council on the 1973 Convention providing a Uniform Law on the Form of an International Will with the aim of ascertaining: (i) whether it was still relevant to the needs of today's world, and (ii) whether the Secretariat ought to deploy additional efforts to promote the instrument and its further ratification (C.D. (99) B.9, paras. 25-38). In line with the direction provided by the Governing Council, the Secretariat has continued to undertake research on the status of the Convention by looking at relevant implementing legislation, case law and commentary available in those jurisdictions which are Contracting Parties, as well as those States which are not Contracting Parties but have incorporated the provisions of the Convention in their legislation. The Secretariat has also continued to prepare documents to share the results of this research in an accessible way (i.e., a research memo with a detailed research bibliography and a frequently asked questions document) with a view to encouraging further adoption and ratification of the Convention. The Secretariat will continue these efforts and will provide an update at a future Governing Council session.

VIII. ACTION TO BE TAKEN

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