

**UIA Resolution
on the UNIDROIT Principles of International Commercial Contracts 2016**

The Union Internationale des Avocats (“UIA”), 20 rue Drouot, 75009 Paris, represented by its President Jerome Roth,

hereby makes the following statement in the presence of the Secretary General of UNIDROIT and members of the UIA Commissions On International Sale of Goods, Contract Law and International Arbitration:

Preamble

UIA, founded in Belgium in 1927 and now based in Paris, is the world’s oldest international association of lawyers. Proud of its multi-lingual and multi-cultural values, UIA is actively engaged in promoting international exchange of information among the world’s lawyers; facilitating the expansion of its members’ international networks; and safeguarding the Rule of Law across the globe. Through its bar association and individual members, UIA brings together two million lawyers from more than 110 countries.

UIA strives to enhance the role of the law and of the world’s legal systems as key components of all aspects of global exchange. This includes international trade and, in particular, cross-border commercial contracts. UIA further seeks to promote peaceful dispute resolution through traditional and innovative methods, including international arbitration.

- I. **Clients’ Needs:** As an international association of lawyers, and recognizing the broad diversity of legal cultures represented by its membership, UIA supports assisting lawyers in providing clients with a variety of options for international contracting and for resolution of related disputes. In doing so, UIA takes account of both the common law and the civil law systems in which its members practice. UIA understands that clients expect their lawyers to present them with a choice of effective, efficient solutions to common legal issues that are adapted to their specific needs and that help reduce legal risk, including risks that may arise from differences among national legal systems.
- II. **A Universal Tool Developed by UNIDROIT:** The UIA takes note that the intergovernmental organization UNIDROIT, with 63 member states on five continents, has been working over the past 40 years since 1980 on finalizing the UNIDROIT Principles of International Commercial Contracts. UIA further understands that the working group that prepared these Principles consists of eminent experts in the field of contract law from all parts of the world and representing all major legal systems. Initially released in 1994 in English and French, subsequent and expanded editions of the Principles were approved by the Council of UNIDROIT in 2004, 2010, and most recently 2016 (the most recent version is referred to herein as “UNIDROIT Principles 2016”). To date, the Principles have been translated into more than 20 languages including all official United Nations languages.

III. Purpose of UNIDROIT Principles: The UNIDROIT Principles set forth “general rules of international commercial contracts” (UNIDROIT Principles, Preamble, para. 1). According to the Preamble of the UNIDROIT Principles,

“They shall be applied when the parties have agreed that their contract be governed by them.

They may be applied when the parties have agreed that their contract be governed by general principles of law, the lex mercatoria or the like.

They may be applied when the parties have not chosen any law to govern their contract.

They may be used to interpret or supplement international uniform law instruments.

They may be used to interpret or supplement domestic law.”

Although by definition the UNIDROIT Principles do not constitute domestic national law, as the Preamble makes clear, they may be expressly agreed to govern a contract by the contracting parties or may be adopted as a choice of law for deciding contract-related disputes, especially pursuant to an international arbitration clause. UIA notes that nothing in the UNIDROIT Principles restricts or otherwise interferes with mandatory rules that are otherwise applicable, whether of national, international or supranational origin (UNIDROIT Principles, art. 1.4).

IV. Content of UNIDROIT Principles: The UNIDROIT Principles 2016 provide general contract law provisions as well as specific rules on such issues as contract formation, authority of agents, validity, interpretation, content, third-party rights and conditions, performance and breach, set-off, assignment of rights and of contracts, transfer of obligations, limitation periods, multiple obligors/ obligees, and long-term contracts. The UNIDROIT Principles are based on a small number of overarching concepts such as freedom of contract/party autonomy, the binding nature of contracts (*pacta sunt servanda*), interpretation of contracts in light of common usages, presumption in favor of upholding the contract if possible (*favor contractus*), and observance of good faith and fair dealing and avoidance of unfairness. The Principles attempt to provide a neutral compromise across varying legal traditions without favoring any one national solution. A supplement to the UNIDROIT Principles 2016 sets forth model contract clauses which contracting parties can use to make the Principles applicable. Where agreed to by the parties to a contract as governing law, or when decision-makers apply them consistent with national, international and supranational law, and based on the principle of party autonomy, the UNIDROIT Principles 2016 provide general default rules for issues not dealt with specifically by the terms of the contract (UNIDROIT Principles, arts. 1.1, 1.5).

V. Recognition by Arbitration Tribunals, National Courts and Legislators: Since their initial release in 1994, the UNIDROIT Principles have been cited in several hundred arbitral awards and domestic court decisions either as general principles of law or as *lex mercatoria*, or to supplement domestic law. In several arbitrations, the parties have agreed on the application of the UNIDROIT Principles during the arbitration itself. Examples of such arbitral awards and court decisions can be found in the UNILEX database which is sponsored by UNIDROIT and is freely accessible at the following link: <www.unilex.info>. Many legislatures have looked to the UNIDROIT Principles in adopting reforms to national contract law, and some have adopted certain UNIDROIT Principles verbatim.

VI. UNCITRAL Endorsement: The United Nations Commission on International Trade Law (UNCITRAL) has endorsed earlier versions of the UNIDROIT Principles, and UIA understands that UNIDROIT is hopeful that, after study that is currently ongoing, UNCITRAL will endorse the UNIDROIT Principles 2016.

VII. Current Use as Neutral Tool: Practitioners have referenced the UNIDROIT Principles in connection with international contracts and international dispute resolution. Depending on particular circumstances, the UNIDROIT Principles may be used by practitioners for various purposes: e.g. to govern a contract by agreement of the parties either on a stand-alone base (often combined with an international arbitration clause) or as supplemented by national law; by agreement of the parties to supplement international instruments, notably the CISG; or to serve as a checklist for international contract drafting.

VIII. Disseminating Information: Disseminating information about the UNIDROIT Principles is important to UIA members and other lawyers who represent parties to transnational transactions and/or international dispute resolution. Because the UNIDROIT Principles are based on neutral compromises among multiple national approaches, the UNIDROIT Principles 2016 may be readily adaptable to the needs of the diverse membership of UIA and of the international bar more generally.

Based on the above, UIA hereby makes the following

Declaration

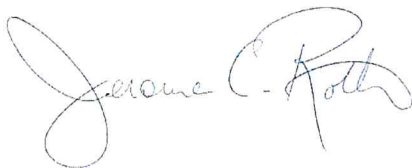
in its three official languages (English, French and Spanish):

To increase the options available to members of UIA and the international legal community in advising clients with respect to international contracts, and because the UNIDROIT Principles 2016 provide one effective, efficient option for drafting and interpretation of such contracts, and for application in the resolution of disputes relating to such contracts, UIA hereby

recommends that the UNIDROIT Principles 2016 be considered by its members and by the international legal community as an important option in connection with drafting, interpretation, and resolution of disputes relating to, international contracts.

Signed at a virtual meeting in San Francisco / Paris and Rome in the presence of UIA members around the globe.

July 15, 2020



UIA
(Jerome Roth, *President*)

Witness:



UNIDROIT
(Ignacio Tirado, *Secretary General*)

