



INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW
INSTITUT INTERNATIONAL POUR L'UNIFICATION DU DROIT PRIVE

International Program for Law and Development 2023

SYLLABUS

1. Introduction to the role of transnational law and unification

International commercial contracts

2. UNIDROIT Principles of International Commercial Contracts (UPICC)

The [UNIDROIT Principles of International Commercial Contracts](#) (UPICC), first published in 1994 and now in their 4th edition (2016), are an international, non-binding codification or “restatement”, providing a set of uniform principles and rules, accompanied by explanatory comments and illustrations, that cover virtually all the most relevant topics of general contract and obligation law. They are the result of extensive, decade-long comparative law work conducted by eminent experts from all continents and provide neutral and balanced solutions adapted to the special requirements of modern international commercial practice. The UPICC have gained significant recognition in scholarly discussions, have influenced national and supranational legislators, and have been used in practice in a variety of ways including reference in a number of arbitral awards and court decisions rendered world-wide. Discussing the UPICC will provide an opportunity for participants to consider the most relevant contractual law issues in an international perspective and reflect upon advantageous contract drafting and dispute resolution.

Mandatory reading: <https://www.unidroit.org/wp-content/uploads/2021/06/Unidroit-Principles-2016-English-bl.pdf>

3. Model Clauses for the Use of the UNIDROIT Principles of International Commercial Contracts

The [Model Clauses](#) for the use of the UNIDROIT Principles of International Commercial Contracts were drafted with the aim to give parties to international commercial contracts a range of options in order to make the most appropriate use of the UNIDROIT in accordance with their interests and the specific circumstances of the case. At the same time, their goal is also to raise awareness on the variety of possible ways the UPICC may be used as an advantageous tool in international contracting and dispute resolution.

Mandatory reading: <https://www.unidroit.org/instruments/commercial-contracts/upicc-model-clauses/>

Private Law and sustainable agriculture

4. Legal Guide on Contract Farming

In 2015, UNIDROIT, the Food and Agriculture Organization of the United Nations (FAO) and the International Fund for Agricultural Development (IFAD) adopted the UNIDROIT/FAO/IFAD [Legal Guide on Contract Farming](#). [Contract farming](#) is a risk management tool based on an agreement between producers and buyers. At its heart lies an agricultural production contract between parties who agree to the terms and conditions of production (and marketing) of agricultural products in advance. The Legal

Guide on Contract Farming intends to promote good practices between farmers and buyers of agricultural commodities by enhancing knowledge and awareness of the legal regime applicable to contract farming operations. It offers guidance on the contractual relationship between agricultural producers and buyers, from negotiation to conclusion, including performance and possible breach or termination of the contract. The Guide is a useful tool and reference point for a broad range of stakeholders involved in contract farming practice, policy design, legal reform, and capacity-building.

5. Legal Guide on Agricultural Land Investment Contracts

UNIDROIT, in collaboration with the International Fund for Agricultural Development (IFAD), prepared the [Legal Guide on Agricultural Land Investment Contracts \(ALIC Legal Guide\)](#). The ALIC Legal Guide provides innovative guidance to improve such contracts by operationalising a number of international principles and standards for the promotion of responsible agricultural investment. The ALIC Legal Guide may be used by a broad range of legal actors when developing contracts, domestic policies, regulatory frameworks, and corporate social responsibility programmes. It may also be used to support capacity development and to raise awareness among legitimate tenure right holders and local communities regarding their rights.

6. Legal Structure of Agricultural Enterprises (LSAE)

The [Legal Structure of Agricultural Enterprises](#) (LSAE) is the most recent project of the tripartite partnership between UNIDROIT, FAO and IFAD.

The background paper suggested that the LSAE project could pursue four main objectives:

- **improve access to market** by analysing the current legal structures that limit access to agricultural markets and making recommendations as to which legal structure promotes better access by smallholders and agriculture Small, Medium-sized Enterprises (agri-SMEs) to adequate domestic and global agricultural markets;
- **increase the size and soundness of agricultural enterprises** by analysing how contractual and corporate networks – either directly or through collaboration within and across agricultural commodities – may favour that outcome;
- **ease access to critical resources and insurance** by analysing which investment vehicles are best suited to promote access to capital, know-how, and technology; and
- **address unfair commercial practices** by analysing, in the context of the legal structures and contractual networks considered, how unfair commercial practices in agrifood activities are covered.

Access to finance

7. Cape Town Convention

With 83 Contracting States ¹, the Convention on International Interests in Mobile Equipment (the “Cape Town Convention”) has the most ratifications of any UNIDROIT instrument and is one of the most successful international commercial law treaties in history. Adopted in 2001, the Cape Town Convention has created an international legal framework regulating secured interests (including leases) in certain categories of high value, mobile and uniquely identifiable equipment. The Convention provides uniform

¹ As of March 2022

rules on the creation of international interests, registration, priority and remedies. A robust understanding of the Cape Town Convention is essential for all those interested in practicing in the fields of international finance law and international commercial law.

Mandatory reading: <https://www.unidroit.org/instruments/security-interests/cape-town-convention/>;

Video: Overview of the Cape Town Convention <https://www.unidroit.org/instruments/security-interests/cape-town-convention/overview/>

8. Aircraft Protocol

Adopted alongside the Cape Town Convention in 2001, with 80 Contracting States² the Aircraft Protocol has the second highest number of ratifications of any UNIDROIT instrument. The Aircraft Protocol has successfully extended the operation of the Cape Town Convention to the Aviation sector. Under the Aircraft Protocol, more than 1.3 million interests in aircraft have been registered in the international registry covering collateral worth over \$650 billion USD. By adapting the rules of the Cape Town Convention to the aviation sector, the Aircraft Protocol has been an essential instrument that has lowered the cost of credit for airlines located in Contracting States.

Mandatory reading: <https://www.unidroit.org/instruments/security-interests/aircraft-protocol/>

9. Rail Protocol

The Luxembourg [Rail Protocol](#) extends the benefits of the Cape Town Convention legal regime to the financing of rail rolling stock (from high-speed trains to freight trains, to commuters and smaller carriages, trams and metros), and creates an international system of recognition for, and priorities of, the rights of financiers secured by railway rolling stock. Building upon the strengths of the Cape Town Convention system, it will bring significant reductions to the cost of financing in the rail industry, thereby fostering sustainable investment goals and facilitating the influx of capital. It will also foster sustainable economic and social development in enhancing transportation of people (urban and extra-urban) and of freight, including cross-border, by the means of railway, thereby squarely meeting many of the global sustainable agenda of the United Nations. The Protocol is nearing the time of entry into force, and has gained the support of key UN regional agencies and other intergovernmental organisations and bodies interested in fostering sustainable growth, including the UN Economic Commission for Africa (UN ECA), the Programme for Infrastructure Development in Africa (PIDA), the African Union, and the European Union.

Mandatory readings: https://www.unidroit.org/wp-content/uploads/2021/07/Rail-Protocol_English.pdf

10. Space Protocol

The Space Protocol to the Cape Town Convention brings the benefits of the Cape Town Convention to the space sector and represents the coordinated efforts of both Governments and the commercial space sector to render asset-based financing more accessible to the space industry. The application of the Space Protocol will result in an increased level of transparency and predictability for financiers, thereby making financing more widely available to a greater number of players in the commercial space sector. Such an instrument will help bring much-needed financial resources to the NewSpace community, namely those small start-up companies that have emerged as a result of the booming commercial space sector.

² As of March 2022

Mandatory readings: <https://www.unidroit.org/instruments/security-interests/space-protocol/>;
<https://www.unidroit.org/instruments/security-interests/space-protocol/overview/>

11. Mining, Agricultural and Construction Equipment (MAC Protocol)

The MAC Protocol to the Cape Town Convention is UNIDROIT's most recent treaty, having been adopted in Pretoria in November 2019. A result of 14 years of negotiations, the MAC Protocol is the most innovative and ambitious extension of the Cape Town Convention to date. While broadly consistent with the other Protocols to the Cape Town Convention, the MAC Protocol contains several adaptations, including specialised provisions regulating inventory and immovable property as well as a unique approach to defining its scope utilising the Harmonized Commodity Description and Coding System. The MAC Protocol is predicted to have a positive impact of \$23 billion on GDP in developing countries and of \$7 billion in developed countries, for a total impact on GDP equivalent to \$30 billion a year. From a development perspective, the MAC Protocol will be one of the most important commercial law instruments aimed at improving economic growth, food security and infrastructure.

Mandatory reading: <https://www.unidroit.org/instruments/security-interests/mac-protocol/>

12. Warehouse Receipts Financing

In 2020, UNIDROIT in partnership with the United Nations Commission on International Trade Law (UNCITRAL) started a joint project to develop a Model Law on Warehouse Receipts. Warehouse receipts are understood as documents – in paper or electronic form – issued by warehouse operators that state the ownership of a commodity and may be traded or used as collateral to obtain credit. This instrument drastically enhances the possibility, especially of small businesses in the agricultural sector, to access finance. A supportive legal framework is widely regarded as a prerequisite for a well-functioning warehouse receipt system. Accordingly, the UNIDROIT/UNCITRAL Model Law will consist of a set of black letter rules and is conceived as a standalone instrument for adoption by States seeking to reform their national legislation. Importantly, the Model Law will contemplate the issuance and transfer of electronic warehouse receipts, including through the use of electronic platforms and distributed ledger technology systems, and thereby allow stakeholders to seize the opportunities offered by new technologies.

Mandatory reading: <https://www.unidroit.org/work-in-progress/model-law-on-warehouse-receipts/>

13. Model Law on Factoring

Factoring is a vitally important type of financing used across the globe. In 2019, global factoring volume reached 2.9 trillion euros. Despite the growing importance of factoring, no intergovernmental organisation has adopted a factoring model law to assist States in undertaking reforms to improve their domestic legal frameworks. The UNIDROIT is developing a Model Law on Factoring to address this lacuna as a high priority project on its 2019-2022 Work Programme. Modelled on the UNCITRAL Model Law on Secured Transactions, the UNIDROIT Model Law on Factoring is currently being drafted by a small group of leading international experts. The draft instrument is expected to be released for public consultations in 2022 and finalised in 2023. Participants will be introduced to the core provisions of the draft instrument, with an emphasis on its complementarity with the Model Law on Secured Transactions.

Mandatory reading: <https://www.unidroit.org/work-in-progress/factoring-model-law/>

Cultural property

14. 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects:

15. Model Provisions on State Ownership of Undiscovered Cultural Objects

UNIDROIT's instruments elaborated to overcome the difficulties faced by States in seeking restitution of stolen or illegally exported cultural objects due to the differences in national legislations. Opportunity to assess the significance, the distinctive features and operational aspects of the 1995 *UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects* and the 2012 *Model Provisions on State Ownership of Undiscovered Cultural Objects* and their interaction with other regional and international instruments.

Mandatory readings: <https://www.unidroit.org/instruments/cultural-property/1995-convention/>
<https://www.unidroit.org/instruments/cultural-property/2012-model-provisions/>

Civil Procedure

16. Procedural law and enforcement

UNIDROIT has extensively worked in the area of [civil procedure](#). Adopted by the American Law Institute (ALI) and UNIDROIT, the ALI-UNIDROIT Principles were developed to reconcile the differences among various national systems of civil procedure and facilitate transnational litigation, promoting due process. The most recent European Law Institute (ELI)-UNIDROIT Model Rules of European Civil Procedure, published in 2020, constitute a regional implementation of the ALI-UNIDROIT Principles and offer detailed guidance for further development of civil procedure in Europe and beyond. UNIDROIT's instrument in this area offer the opportunity to discuss key issues of procedural law in an international perspective.

The UNIDROIT project on Best Practices for Effective [Enforcement](#) stems from the recognition of the vital importance of developing a modern legal framework enabling the effective execution of creditor's claims for an improved access to credit, for an increase in trade and investment and for overall economic development and sustained growth. Effective enforcement is also an integral element of a full access to justice.

Many jurisdictions in the world, however, face a number of challenges in this area, including the excessive length and costs of the procedures, the limited role of party autonomy, the malfunctioning or absence of extra-judicial remedies, and lack of transparency. Moreover, additional challenges are created by the impact of new technologies, which can be powerful tools to tackle traditional obstacles in enforcement (e.g. through automated mechanisms, e-auctions, etc.) but also a source of new potential problems that should be addressed (e.g., monitoring, accountability, respect of fundamental rights). Moreover, there is the need to consider suitable enforcement mechanisms for new categories of assets such as digital assets. The project aims to provide national legislators and other policy makers with a set of global standards and best practices, going beyond existing international instruments, designed to improve the domestic normative framework applicable to enforcement.

Mandatory readings: <https://www.unidroit.org/instruments/civil-procedure/ali-unidroit-principles/>;
<https://www.unidroit.org/instruments/civil-procedure/eli-unidroit-rules/>

17. Best Practices for Effective Enforcement

<https://www.unidroit.org/work-in-progress/enforcement-best-practices/>

Law and technology

18. Digital Assets and Private Law Project

In 2020, UNIDROIT launched its first project in the area of law & technology: the Digital Assets and Private Law Project. It aims to provide legislative guidance and to develop principles relating to the legal nature, transfer and use of digital assets. It will include a legal taxonomy of digital assets and features analysis focusing on proprietary interests while considering issues such as secured transactions, applicable law in cross-border transactions, insolvency, and the legal position of intermediaries.

Mandatory reading: <https://www.unidroit.org/work-in-progress/digital-assets-and-private-law/>