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Item No. 9 on the agenda: Promotion strategy for other UNIDROIT instruments

(prepared by the Secretariat)

<i>Summary</i>	<i>Strategy proposal for the promotion of other UNIDROIT instruments</i>
<i>Action to be taken</i>	<i>The Governing Council is invited to take note of the promotion strategy and future activities proposed</i>
<i>Mandate</i>	<i>Work Programme 2023-2025</i>
<i>Priority level</i>	<i>High</i>
<i>Related documents</i>	<u>UNIDROIT 2019 C.D. (98) 10</u> ; <u>UNIDROIT 2022 C.D. (101) 4 rev.</u> ; <u>UNIDROIT 2023 C.D. (102) 19</u>

I. INTRODUCTION

1. The promotion of UNIDROIT instruments is an indispensable, high-priority activity of the Institute that remains unchanged from triennium to triennium. In accordance, the promotion of all UNIDROIT instruments should be regarded as indispensable and, as such, should have both human and financial resources devoted to it. This is also applicable to the Conventions for 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 limited of resources, to establish priorities in its promotional activities, sometimes based on the positive momentum of certain instruments, and resort to partnerships with other interested organisations as much as possible.

2. Specific information on the strategy for the promotion of UNIDROIT's conventions, in particular the Cape Town Convention and its Protocols and the 1995 UNIDROIT Convention, as well as on the implementation strategy for the newly adopted UNIDROIT Model Law on Factoring, the UNIDROIT Principles on Digital Assets and Private Law, and on the Principles of Reinsurance Contracts (PRICL) is provided in other documents for this Governing Council session. The present document provides an update on the promotion strategy regarding the following two instruments:

- The UNIDROIT Principles of International Commercial Contracts (UPICC);
- The ELI/UNIDROIT Model European Rules on civil procedure.

II. UNIDROIT PRINCIPLES OF INTERNATIONAL COMMERCIAL CONTRACTS 2016

A. Raising awareness on the UNIDROIT Principles of International Commercial Contracts

3. As it celebrates the 30th anniversary of the adoption of their first edition by the Governing Council, the Secretariat continues to promote the UNIDROIT Principles 2016 (UPICC) as a high-priority activity. One of the main goals is to raise awareness about the UPICC and the potential advantages of their use, both in international commercial trade and for legislative reform. To this end, the Secretariat not only gratefully relies on the initiative of academic correspondents and other experts, including Governing Council members, but also actively builds upon existing cooperation initiatives with academic and professional circles, as well as other organisations, particularly those conducting capacity building and continuing legal training and education. It further actively looks for new avenues of cooperation and dissemination. The following are examples of the numerous initiatives co-sponsored by UNIDROIT and/or with the participation of UNIDROIT Secretariat in 2023 and 2024 (many of which are recurring activities in the framework of specific agreements):

- Co-sponsoring of and participation in conferences and seminars with particular focus on the involvement of legal professionals, such as judges, arbitrators, in-house counsellors, and practicing lawyers (e.g., a workshop for a delegation of Georgian Lawyers of Independent Profession, with a presentation on the practical application of the UPICC in Georgia by a Georgian expert; the University of Roma Tre – UNIDROIT Annual International Arbitration Lecture, held on 22 September 2023 and delivered by Alexis Mourre on “The UNIDROIT Principles as a Tool for the Internationalisation of Contracts by Arbitral Tribunals”; a panel on “Unpredictable events in international trade: force majeure and hardship clauses under the UNIDROIT Principles and ICC standard clauses” at the International Bar Association 2023 Annual Conference in Paris, with participation of the UNIDROIT Deputy Secretary-General at the invitation of the International Commerce and Distribution Committee; the panel, introduced by Laura Opilio (Senior Co-Chair) and Dietmar Huemer (Vice-Secretary), and moderated by Raquel Stein and Irene Arévalo Gonzales, also saw the participation of Prof. Maria Beatrice Deli (Secretary-General of the Italian Arbitration Association), Prof. Denis Philippe (University of Louvain) and Prof. Renata C. Steiner (University of São Paulo);
- Participation in academic conferences (e.g., a conference on the UPICC co-organised by Özyeğin University and UNIDROIT in Istanbul, Türkiye, and hosted by Ms Jocelyne Alayan; a presentation by the UNIDROIT Secretary-General and Deputy Secretary-General at the 21st Biennial Meeting of the International Academy of Commercial and Consumer Law, held at Bar Ilan University, Israel; dedicated presentations at the 14th Conference of Transnational Commercial Law Teachers, which was hosted by Professor Henry Gabriel at the Elon Law School - Greensboro, North Carolina, US - the full programme is available [here](#), as well as a presentation on Sustainability of Global Supply Chains and the UPICC by the UNIDROIT Deputy Secretary-General, and the contribution on the UPICC by Professors María Ignacia Vial Undurraga and Isabel Zuloaga Ríos, University of Los Andes).
- Co-sponsoring and/or participation in capacity-building programmes (e.g., annual lectures by Legal Officer Philine Wehling as part of the ITCILO Master’s in International Trade Law, co-sponsored by UNIDROIT; dedicated lectures in the second edition of the UNIDROIT International Programme for Law and Development – IPLD, financed by the Italian Ministry of Foreign Affairs and Cooperation, in June-July 2023; the UPICC will be featured also at the third edition of the Programme which is planned for June-July 2024).
- Lectures in the framework of cooperation agreements with academic institutions (e.g., Masters in International Business Law at LUISS; Partner Fair at the Shanghai University

of Political Science and Law (SHUPL); co-organised section on UNIDROIT instruments for the Masters in International Business Law at the University La Sapienza in Rome – 2023 edition by Senior Legal Officer Rocco Palma and Legal Officer Philine Wehling; lecture as part of the Transversal Skills Laboratory of Bari University on 16 April 2024; lecture at Lausanne University on 14 May 2024); and

- Co-sponsoring of moot courts that promote knowledge and application of the UPICC (e.g., the Intercollegiate Negotiation Competition in Japan, entirely based on the application of the UPICC, and the William C. Vis International Commercial Arbitration Moot which routinely involves application of the UPICC).

4. Moreover, the Secretariat is involved in a joint research project with the University of Roma Tre on Global Crises and Contract Remedies, in the framework of the Roma Tre - UNIDROIT Centre for Transnational Commercial Law and International Arbitration that has recently been constituted under the auspices of the UNIDROIT Academy. The project aims at producing a non-legislative document focusing on the law and practice of specific types of contracts in selected jurisdictions and subsequent comparison with the UPICC. The University will fully support the project financially and administratively, incurring no burden on the Institute's resources.

B. The UNIDROIT Principles as a background for general contract law for specific types of contracts

5. In the past few years, the UPICC have been expressly used and referred to as a starting point and a background for general contract law for UNIDROIT projects dedicated to specific types of (international) contracts, in various ways, corresponding to the manifold potential practical applications of the Principles:

- as a point of reference to develop more specific legislative and contractual guidance;
- as a model for contractual clauses; and
- as potential applicable law, as the case may be, in conjunction with an applicable domestic or international legal framework for the specific contract envisaged by the project.

6. Examples of adopted instruments include the 2015 Legal Guide on Contract Farming and the 2020 Legal Guide on Agricultural Land Investment Contracts. Also a very strong role is being played by the UPICC in the development of the Principles on Reinsurance Contract Law (PRICL –for more information, see C.D. (103) 8).

7. This strategy has also been adopted in relation to the projects in the most recent Work Programme, particularly for:

- The high-priority project on UNIDROIT Principles of International Commercial Law and Investment Contracts (see C.D. (103) 10), and
- The medium-priority project on Corporate Sustainability Due Diligence in Global Value Chains (see C.D. (103) 12).

8. The Secretariat believes that continuing to capitalise on the role of the UPICC as general background contract law is a winning strategy for their wider promotion and dissemination in practice in various business circles around the world.

C. Application of the UNIDROIT Principles in specific regions

9. Another avenue pursued by the Secretariat is to consider the impact of the UPICC in relation to specific regional areas that present a similarity in their general contract laws. To this end, the

Secretariat is continuing to focus on the MENA region with various initiatives, including a draft research paper examining the use of the UPICC across the MENA region by which was prepared by Legal Officer Philine Wehling.

D. 30th anniversary of the first edition of the UNIDROIT Principles as a forum for strategic planning for their future promotion and dissemination

10. The Secretariat encourages reflection on the most effective ways of keeping the UPICC “alive”, as one of the most relevant flagship instruments developed by UNIDROIT to date. The 30th anniversary of their first edition, which is celebrated this year, is being used as a forum to discuss the future of the UPICC in the context of UNIDROIT’s activities, including through the following events:

- On 6 and 7 May 2024, UNIDROIT has organised a celebratory conference to mark the 30th anniversary of the adoption of the first edition of the UPICC by the UNIDROIT Governing Council. UNIDROIT Governing Council members, academic experts, and practitioners will gather in Rome to discuss the different ways in which the UPICC have been used over the past thirty years, as well as their possible role in shaping new frontiers of contract law. Topics addressed will include the historical roots of the UPICC and their synergies with other uniform law instruments, the use of the UPICC in contract drafting and in arbitration, the use of the UPICC as general contract law in the development of new UNIDROIT instruments, and the fundamental role they play in shaping national legislation as well as domestic case law. The final panel will play the crucial role of taking stock of the previous discussions to collect ideas and impulses for ways forward. The Secretariat is planning to collect the presentations to the conference and other relevant contributions in a dedicated volume, which will be part of the publications towards the Centenary of the Institute.
- UNIDROIT will co-sponsor, and participate in, other celebratory seminars and conferences organised by academic institutions and/or professional associations, among which:
 - i. The conference “Unifying the Commercial World – 30th birthday of the UNIDROIT Principles of International Commercial Contracts”, jointly organised by the University of Hamburg, the Hamburg Chamber of Commerce, and Bucerius Law School, in conjunction with the celebration of the 40th anniversary of the German-Greek Lawyers’ association “DGJV”. The conference will feature a panel on UNIDROIT Principles in arbitration and one on the UNIDROIT Principles as Substantive Principles and Rules of Law. Please see [here](#) for details.
 - ii. A dedicated panel on “30 Years of The UNIDROIT Principles: Lessons Learnt” at the seventh edition of the conference “International Arbitration, Current Perspectives”, organised by the International Association of Lawyers – Union Internationale des Avocats (UIA) in Bilbao, Spain, with participation of the President of UNIDROIT.
 - iii. The United Rule of Law Appeal (UROLA), an affiliate of the International Law Institute, generously agreed to provide funding for an Essay Competition in 2024 on “Thirty years of the UNIDROIT Principles of International Commercial Contracts”. The Essay Competition was launched on 19 January 2024. Participants were invited to author an essay examining the use of the UPICC in practice and their role in the development of the law. The deadline for submissions was 15 April 2024. As usual, the top three essays will receive a monetary prize, and a webinar will be organised to allow the authors of the top five essays to present their work.

III. ACTION TO BE TAKEN

11. *The Secretariat would kindly request additional input and suggestions from Governing Council members in achieving the goal of a wider promotion and use of the UNIDROIT Principles.*

IV. ELI-UNIDROIT MODEL EUROPEAN RULES ON CIVIL PROCEDURE

A. Dissemination conference co-sponsored with ELI

12. On 5-6 February 2024, the ELI-UNIDROIT Model Rules of European Civil Procedure were presented and discussed during a dissemination conference jointly sponsored by ELI and UNIDROIT and organised by ELI at the Austrian Academy of Sciences in Vienna. The conference, which saw the participation of many experts that had been involved in the development of the instrument, commentators with academic and judicial expertise, and several other interested participants, provided an overview of the Rules and an insight into the developments in US procedural laws as well as its convergence and divergence with the Model Rules; it then considered the approach of the Model Rules to Case Management and Cooperation and Access to Information and Evidence and to Collective Procedures, Costs, Res Judicata as well as the impact of the Model Rules on Current and Prospective Reforms of Procedural Laws in Italy, UK, and at EU level. Finally, the conference reflected on the challenges and opportunities provided by digitalisation and new technology in civil procedure and enforcement and considered the role of the translations of the Model Rules in the wider context of the role of translations of uniform soft law instruments.

B. Publications and translations

13. A Commentary on the ELI/UNIDROIT Model Rules edited by Professors Astrid Stadler, Vincent Smith, and Fernando Gascón Inchausti was published in 2023 in the Elgar Commentaries in European Law series. More information can be accessed at this [link](#).

14. Regarding translations, the Portuguese version of the ELI-UNIDROIT Model Rules, prepared by prepared by Professors Paula Costa e Silva, Edilson Vitorelli, and João Marques Martins. was released in February 2024. The text can be accessed at this [link](#).

V. ACTION TO BE TAKEN

15. *The Governing Council is invited to take note of the information provided on the promotion of UNIDROIT instruments and the promotion strategies proposed for the ELI-UNIDROIT Model Rules of Civil Procedure.*