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**GUIDE ON THE LAW APPLICABLE TO INTERNATIONAL COMMERCIAL
CONTRACTS IN THE AMERICAS**

REPORT ON DISSEMINATION EFFORTS

98th REGULAR SESSION
Rio de Janeiro, Brazil
April 5-9, 2021

(Document prepared by the Department of International Law)

Guide on the Law Applicable to International Commercial Contracts in the Americas

Report on Dissemination Efforts

Mandate:

“To thank the Inter-American Juridical Committee (CJI) for forwarding the Guide on Law Applicable to International Commercial Contracts in the Americas..., to take note thereof, and **to urge it to disseminate [the Guide] as widely as possible through its Technical Secretariat.**”

(International Law, AG/RES. 2930, June 2019)

“**To welcome the dissemination** by the Technical Secretariat of the Inter-American Juridical Committee (CJI) of the Guide to the Law Applicable to International Commercial Contracts in the Americas among the member states and to urge it to keep its contents current, in order to consolidate it as a tool at the service of member states.”

(International Law, AG/RES. 2959, October 2020)

The following is a brief report on efforts by the Department of International Law (DIL) in its capacity as Technical Secretariat for the Inter-American Juridical Committee (CJI) and by Dr. Jose Moreno, CJI Member and Rapporteur, to disseminate the Guide in fulfillment of the above mandates.

- The official text of the Guide has been made available in e-book format in English, Spanish and Portuguese at the following links:

http://www.oas.org/en/sla/dil/publications_Guide_Law_Applicable_International_Commercial_Contracts_Americas_2019.asp

http://www.oas.org/es/sla/ddi/publicaciones_digital_Guia_sobre_Derecho_Aplicable_Contratos_Internacionales_Americas_2019.asp

http://www.oas.org/es/sla/ddi/publicacoes_digital_Guia_sobre_o_Direito_Aplicavel_aos_Contratos_Comerciais_Internacionais_nas_Americas.asp

- Limited numbers of the publication have been published in hard copy in English and Spanish.
- The Guide has been translated into Portuguese and into French and these unofficial translations could be made available for distribution, pending a decision from the CJI.
- Notice of the Guide has been published on the websites of the following associations: American Association of Private International Law (ASADIP) and the Hispanic American Luso Institute for International Law (Instituto Hispano-Luso-Americano de Derecho Internacional - IHLADI). Notice has also appeared in the newsletter and the website “Conflictoflaws.Net”, which is widely consulted on private international law.
- March 11, 2019: DIL sent out a newsletter that the Guide had been approved by the CJI and the link is here:

http://www.oas.org/en/sla/dil/newsletter_DDI_CJI_Guide_applicable_International_Commercial_Contracts_Americas_March-2019.html

- March 18, 2019: DIL sent out a newsletter that the Guide received support from various international entities, including UNIDROIT, the Hague Conference on Private International Law (HCCH) and the American Association of Private International Law (ASADIP) and the link is here:

http://www.oas.org/en/sla/dil/newsletter_DDI_CJI_Guide_applicable_International_Commercial_Contracts_Americas_Support_March-2019.html

- April 4, 2019: The Guide was presented to the group of experts that is preparing a publication on international contracts for Oxford University Press (OUP), with contributions from more than 70 authors from 5 continents. The Guide has been referenced throughout the OUP draft publication, entitled “General Comparative Report: Global Perspectives on the Hague Principles”, (June 2020 draft).
- April 9, 2019: In partnership with the American Bar Association, Section on International Law, DIL organized an event entitled “A Day at the OAS” for ABA members and OAS Permanent Missions that included a panel discussion on the Guide. The panel was comprised of Dr. David Stewart, former CJI member; Ms Jeannette Tramhel, DIL Senior Legal Officer; Ms Judith Wilson, ABA Section Member from Mexico; and Mr. Eduardo Benavides, ABA Section Member from Peru.
- May 1, 2019: DIL sent out a newsletter on the aforementioned event and the link is here:
http://www.oas.org/en/sla/dil/newsletter_DDI_American_Bar_Association_OAS_May-2019.html
- June 5, 2019: The Guide was mentioned and its text distributed during an event to celebrate 130 years of the Montevideo Treaties at the University of the Republic of Uruguay.
http://www.oas.org/en/sla/dil/newsletter_DDI_anniversary_Treaties_of_Montevideo_June-2019.html
- June 24, 2019: The Guide was presented by Dr. José Moreno at a keynote conference held at an event organized by the Chamber of Commerce of Santo Domingo, Dominican Republic.
- August 5, 2019: The Guide was presented at an event organized in the framework of the CJI Course on International Law, held at the Faculty of Law of the Federal University of Rio de Janeiro. The text was discussed by Professor Nadia de Araújo, the renowned referee Dr. Renato Grion and Dr. José Moreno.
- August 22, 2019: DIL sent out a newsletter on the aforementioned event and the link is here:
http://www.oas.org/en/sla/dil/newsletter_DDI_CJI_Presents_Guide_Law_Applicable_International_Commercial_Contracts_Americas_August-2019.html
- August 20, 2019: The Guide was mentioned and distributed at an event organized in Asunción, Paraguay, with the Advisory Council of the Vienna Convention on the International Sale of Goods (CISG Advisory Council).

- September 2019: The Guide was referenced in materials for a moot competition organized by the University of Buenos Aires and the University del Rosario of Bogotá and held in Asunción, Paraguay.
- November 14, 2019: A presentation on the Guide was made by DIL to the Committee on Juridical and Political Affairs of the OAS Permanent Council at which time printed copies of the Guide in English and Spanish were disseminated to all Permanent Missions.
- November 22, 2019: The Guide was presented at the annual conference of ASADIP by means of a panel comprised of Dr. Jose Moreno, CJI Member and Rapporteur; and Ms. Jeannette Tramhel. Hard copies of the Guide were distributed to those members who had contributed comments during the development of the Guide.
- December 9, 2019: DIL sent out a newsletter on the aforementioned event and the link is here: http://www.oas.org/en/sla/dil/newsletter_DDI_CJI_Guide_applicable_International_Commercial_Contracts_Americas_Support_December-2019.html
- January 20, 2020: The draft tripartite Legal Guide to Uniform Legal Instruments in the Area of International Commercial Contracts (with a focus on sales) prepared by UNCITRAL, UNIDROIT and HCCH was made available for consultation; it contains express references to the OAS Guide.
- January 23, 2020: An informational meeting about the Guide was organized by DIL for OAS Permanent Missions in collaboration with the Inter-American Bar Association, DC Chapter and held in the OAS Main Building, in Washington DC. The purpose was to provide an opportunity for more in-depth discussions than the previous (time-constrained) CAJP meeting in November 2019. A presentation on the Guide was followed by informal dialogue among participants, which also served as a forum for exchanges between members of OAS Permanent Missions and the private sector.
- January 28, 2020: DIL sent out a newsletter on the aforementioned event and the link is here: http://www.oas.org/en/sla/dil/newsletter_DDI_CJI_Guide_applicable_International_Commercial_Contracts_Americas_Support_January-2020.html
- January 30, 2020: By way of follow-up, DIL has sent to OAS Permanent Missions a survey on the informative meeting and a request for introductions and/or contact information that would enable DIL to communicate with bar associations, chambers of commerce, academic and judicial institutions, and any other entities at the domestic level that might be interested in the Guide.
- The Guide was referenced in a bill presented in Brazil, prepared by Claudia Lima Marques and Nadia de Araújo, which would modify the regulation of international contracts. Also, the text of the Guide is being considered by a commission that is preparing a reform to Colombian Private International Law, promoted by the Chamber of Commerce of Bogotá.
- In January 2020, the Rapporteur presented a hard copy of the Guide to the Secretary General of the International Centre for Settlement in Investment Disputes (ICSID).

- In January 2020, the Permanent Mission of Ecuador to the OAS gave notice that a Focal Point for the dissemination of the Guide had been appointed: Ambassador Arturo Cabrera, Director of the Inter-American System in the Ministry of Foreign Relations and Human Mobility [Sistema Interamericano del Ministerio de Relaciones Exteriores y Movilidad Humana.]
- In February 2020, DIL was notified of efforts being undertaken on an unofficial translation of the Guide into the Romanian language.
- In February 2020, DIL was invited to participate in the Third Conference on International Coordination of Secured Transactions Law Reforms that was held in Colombia: http://www.oas.org/en/sla/dil/newsletter_DDI_Recent_Advances_Secured_Financing_February-2020.html. During the conference, DIL took advantage of the opportunity to disseminate hard copies of the Guide to several participants, including, the Secretary of UNCITRAL, the Secretary General of UNIDROIT, the Minister of Justice and Law of Colombia; information about the Guide and a link to the virtual online copy was also widely disseminated among those present.
- Until the start of the COVID-19 pandemic in March 2020, hard copies of the Guide had been presented to distinguished professors of private international law at law schools in the region as opportunity permitted.
- On June 9, 2020, the Rapporteur presented an online Masterclass on Questions on Applicable Law in International Commercial Contracts, for the Faculty of Law of the University Austral, Argentina and also spoke about the Guide at a program held at that University on “Diplomatura en Contratos y Litigios Judiciales Internacionales” <https://www.austral.edu.ar/derecho/diplomaturas/diplomatura-en-contratos-internacionales-y-litigio-transnacional/>
- In June 2020, the Rapporteur was advised by Professor Pedro Mendoza Montano that he would introduce the compulsory study of the Guide in the subject of International Business Law that he teaches at the Faculty of Law of the Francisco Marroquín University in Guatemala City.
- On July 16, 2020, IHLADI adopted a set of recommendations on “COVID-19 and Frustration of International Contracts.” Recommendation 1 states as follows: “In order to strengthen the progressive harmonization of the law of international contracts, it is recommended that States, judges and arbitrators take into account the guidelines, solutions and interpretations contained in the Guide on the Law Applicable to International Commercial Contracts in the Americas of the Inter-American Juridical Committee of the OAS, which aims “to advance important aspects of the law applicable to international commercial contracts in the Americas, to promote regional harmonization on the subject and thereby to encourage regional economic integration, growth and development” (para 8), in particular the 18 recommendations of the Guide concerning States' own laws on the law applicable to international commercial contracts.” <http://ihladi.net/wp-content/uploads/2020/07/COVID-19-and-frustration-of-international-contracts.pdf>
- In July, 2020, the Rapporteur presented the Guide in Session VIII entitled “Applicable Law” during a course entitled Alternative Dispute Settlement: “A Domestic and International

Perspective”, organized by the Young Arbitrators Association of Honduras and sponsored by Lexincorp, a Central American Law Firm.

- Between August 10 and 13, 2020, the Rapporteur presented the Guide during a virtual conference (based out of Peru) entitled “Arbitration, Supply and Construction.” The conference included more than 50 exhibitors and the main national and international arbitration organizations such as: ICC YAF, Peruvian Young Arbitrators and Arbitral Women. The virtual event was broadcast live on the Facebook Live and Zoom platforms simultaneously.
- On August 27, 2020, the Rapporteur presented the Guide during the 18th Brazilian Congress of International Law (held virtually) in a special session, entitled “Guia da OEA relativo ao Direito Aplicavel aos Contratos internacionais nas Americas.”
- On September 10, 2020, the Rapporteur presented the Guide during a webinar entitled “Applicable Law and the UNIDROIT Principles in International Arbitration” organized by the National Bar Association of Panama (CNA) and the CNA Mediation and Arbitration Commission.
- Between October 20 and 23, 2020, the Rapporteur presented the Guide during the XI Edition of the International Arbitration Congress (CAI) Costa Rica “Arbitration: Effective Instrument of the International Commercial” (virtual edition) in a panel entitled “International Contracts - Key Elements in Times of Pandemics.”
- On November 10, 2020, the Rapporteur was the keynote speaker and presented the Guide during a webinar that also included Rafael Rincón and Antonio Aljure as panelists with Daniela Páez Cala as moderator. The event was sponsored by Zuelta Abogados of Bogotá, Colombia.
- On November 27, 2020, the Guide was mentioned as “an indispensable text” in a presentation by Professor Jaime Gallego, Faculty of Law, University of Chile, during his presentation on “International Contracts and Choice of Law” at the VI Conference of ADIPRI (the Chilean Association of Private International Law).
- On December 9, 2020, the Department gave a presentation on the Guide at a virtual meeting with the Vice Minister of External Relations of Guatemala, the Permanent Representative of Guatemala to the OAS, and the Director of the Coordinating Committee of Agriculture, Commercial and Financial Associations (Comité Internacional del Comité Coordinador de Asociaciones Agrícolas, Comerciales, Industriales y Financieras - CACIF) in the context of a proposed law reform initiative based on the Guide.
- The Rapporteur published an article entitled, “La Nueva Guía de la Organización de Estados Americanos y el derecho aplicable a los contratos internacionales (Parte I)” in the Revista Española de Derecho Internacional, Sección Estudios, Vol. 73/1, January – June, 2021, Madrid.