Principles of Reinsurance Contract Law (PRICL)

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PRICL: Why?

**Common Law**
- Insurance contract law = reinsurance contract law
- Reinsurance-specific case law
- Different solutions in different jurisdictions (e.g. follow-the-settlements clauses; aggregation clauses)

**Civil Law**
- Insurance contract law acts ≠ applicable to reinsurance contracts
- General contract law rules applicable
- No reinsurance-specific rules
- Reference to vague reinsurance usages (if available)

**Problem**
- Reinsurance transactions = cross-border transactions
- Substantial legal uncertainty as to substance of applicable legal rules
  → industry demands uniform instrument

**Solution**
- Uniform soft law (PRICL)
PRICL: Who?

Principles Drafting Committee
• Universities of Zurich, Frankfurt am Main & Vienna
• Representatives from Belgium, Brazil, France, Italy, Japan, Singapore, South Africa, UK, USA

Advisory Groups
• Reinsurers
• Direct Insurers
• Brokers

Special Advisors
• Unification of law
• Arbitration
• PIL/Mandatory Rules
PRICL: UNIDROIT

- Intergovernmental Organisation
- Unification of global commercial law (conventions & soft law)
- PICC 2016 (global commercial contract law, general part)
- PRICL part of the UNIDROIT Work Programme 2017 - 2019
PRICL: What?

**Soft law**
- Only applicable if parties choose PRICL (Article 1.1.1 PRICL)
- No codification in international treaty
- No model law for national legislation

**Arbitration**
- Article 28 UNCITRAL Model Law
- PRICL as the applicable law

**Litigation**
- PRICL incorporated into contract

**Structure**
- Drafted like statutory rules
- Accompanied by comments and illustrations
PRICL: General Rules

Ch. 1: General Provisions
• Substantive scope of application
• External gaps
• Exclusion or modification of the PRICL
• Usages and practices
• Mandatory rules
• Interpretation and internal gaps
• Definitions of reinsurance terms

PRICL and PICC in particular

Article 1.1.2 PRICL:
"Issues not settled by the PRICL shall be settled in accordance with the UNIDROIT Principles of International Commercial Contracts ("PICC")."

PRICL: reinsurance-specific issues
PICC: issues of general contract law

} comprehensive set of reinsurance contract law rules
PRICL: Specific Rules

Ch. 2: The parties’ duties
• Utmost good faith
• Pre-contractual disclosure duty
• Premium payment
• Payment of reinsurance claim
• Notice of changed circumstances / increased risk
• Right of inspection
• Notice of claims
• Claims handling duty
• Cooperation in claims handling duty
• Follow-the-settlements | Follow-the-fortunes

Ch. 3: Remedies
• Breach of contract
• Breach of pre-contractual disclosure duty

Ch. 4: Aggregation
• Event-based aggregation
• Cause-based aggregation

Ch. 5: Allocation
• Losses occurring during
• Risk-attaching during
• Multiple contracts of reinsurance
PRICL: Future

Publication of PRICL
• Online open-access publication of PRICL 1st part in June 2019
• Online open-access publication + print publication of PRICL in 2022

Further development of the PRICL
• SNF | DFG will fund the project for 3 more years (until 2022)
• Development of further rules on the following issues:
  - Back-to-back cover
  - Extra-contractual liability
  - Reinsurance period
  - Prescription
  - Classes of reinsurance which may be governed by the PRICL

Cooperation PRICL - UNIDROIT
Integration of PRICL into UNIDROIT Work Programme 2020 – 2022
[to be decided in the course of 2019]