

The Law Society of Hong Kong's 5th Belt and Road Conference:

“Metaverse and Money on the Belt and Road”

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Currency, payment issues and digital assets in negotiating and enforcing contracts

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How do we deal with currency, payment issues and digital assets in negotiating and enforcing contracts?

INTERNATIONAL INSTRUMENTS NEGOTIATED BY INDEPENDENT, INTERGOVERNMENTAL ORGANISATIONS



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INTERNATIONAL INSTRUMENTS ADDRESSING CURRENCY, PAYMENT, DIGITAL ASSETS AND CONTRACTS ON THE BELT AND ROAD

1. Essential use of international instruments
2. Instruments supporting the entire 'life cycle' of legal relationships
3. Utility of both existing and new international instruments

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1. Essential use of international instruments

- a. The Belt and Road is a global initiative, requiring cross-border transactions, need for Conflict of Law Rules
- b. Transnational nature of digital currencies
- c. Allows development of balanced instruments that reflect principles from different legal systems, politically acceptable
- d. Supports private sector - harmonised framework opens new opportunities, lowers costs and risks for the private sector.



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2. Instruments supporting the entire 'life cycle' of legal relationships

Creation – what is a “digital asset”, “data”, “money”, “receivable”?

- UNIDROIT Digital Assets, MLF, MLWR;
- UNCITRAL on Data, RC, MLST

Contracting – legal rights and obligations, how to transfer,

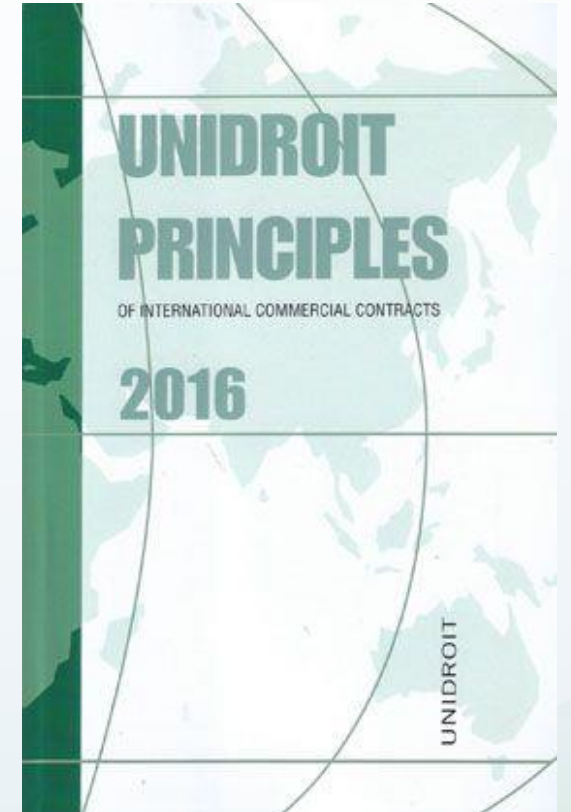
- UNIDROIT UPICC; UNCITRAL CISG,

Dispute and enforcement – Procedural rules, enforcement, COL

- HCCH JC; SC& EC, UNIDROIT enforcement; UNCITRAL NYC, SC, ODR

Regulatory issues – financial stability of crypto-assets

- FSB on stablecoins; IOSCO on crypto-asset trading platforms



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3. Utility of existing and new instruments

- Clearly need for some new rules (treatment of digital assets, data)
- However, in most cases, existing international instruments facilitating cross border contracting, trade, border and finance are still applicable (no need to catch up, possibly just reinterpret)
- **Central principle: technological neutrality**
- MLF - Receivable: *“a contractual right to payment of a sum of money”*
 - Includes non-fiat currencies and cryptocurrencies
- False distinction between “virtual/digital” and “physical” spheres.

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Thank you for your attention!

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