The Future of Transnational Civil Litigation

English Responses to the ALI/UNIDROIT Draft Principles and Rules of Transnational Civil Procedure

Edited by
Mads Andenas
Neil Andrews
Renato Nazzini

Consultant American Editor
Antonio Gidi

Assistant Editor
Hugo Warner

With Forewords by
The Rt Hon Lord Goff of Chieveley
Professor Michael Traynor

BIICL
BRITISH INSTITUTE OF INTERNATIONAL AND COMPARATIVE LAW
www.biicl.org
# Table of Contents

**Foreword by The Rt Hon Lord Goff of Chieveley**  ix  
*Foreword by Professor Michael Traynor, President of the American Law Institute*  xi  
**Editors’ Preface**  xiii  
**List of Contributors**  xv  
**Table of Cases**  xvii  
**Table of Legislation**  xxiii  
**Table of ALI/UNIDROIT Principles and Rules of Transnational Civil Procedure: Discussion Draft No 3 (8 April 2002)**  xxvii

## Part I: Prefaces to the Discussion

1. The ALI/UNIDROIT Project  3  
   *Geoffrey Hazard Jr*

   *Rolf Stürner*

3. Do we need a Transnational Civil Procedure Code?  13  
   A Critical Comment  
   *Cyril Glasser*

4. Comparative Reflections  17  
   *Sir Jeremy Lever KCMG QC*

## Part II: A General Perspective

5. Embracing the Noble Quest for Transnational Procedural Principles  21  
   *Neil Andrews*

## Part III: Four Judicial Perspectives

6. The ALI/UNIDROIT Rules of Transnational Civil Procedure in the Perspective of the New English and Welsh Rules  43  
   *Sir Anthony May*
Chapter 7: The 'Overriding Objective', Procedural Sanctions, and Appeals
Sir Henry Brooke

Chapter 8: First Instance and Appellate Proceedings in Commercial Matters
Sir Bernard Rix

Chapter 9: The Proactive Judge and the Provision of a Single Transnational Case Management System and its Associated Procedures
Robert Turner

Part IV: Fundamental Procedural Institutions

Chapter 10: Transnational Litigation and ADR: The Philosophy of the CPR
Renato Nazzini

Adam Johnson

Chapter 12: Compliance with Process Obligations and Fair Trial
Adrian Zuckerman

Chapter 13: Documentary Disclosure: Lessons from the English Experience
Charles Hollander QC

Chapter 14: Admission and Presentation of Evidence
Michele Taruffo

Part V

ALI/UNIDROIT Principles of Transnational Civil Procedure:
Proposed Final Draft (9 March 2004)*

Foreword
Preface
Table of Contents
Introduction
Principles of Transnational Civil Procedure (with commentary)
Rules of Transnational Civil Procedure (with commentary)
Appendix 1: Principles (without commentary)
Appendix 2: Rules (without commentary)

* This final Draft is reproduced here with the kind permission of the American Law Institute (see iv for full details) for reference.
Part VI

**ALI/UNIDROIT Principles and Rules of Transnational Civil Procedure with Commentary: Discussion Draft No 3 (8 April 2002)**

- Principles of Transnational Civil Procedure (with commentary) 341
- Rules of Transnational Civil Procedure (with commentary) 359

**The chapters in this book refer to this draft of the ALI/UNIDROIT Principles and Rules of Transnational Civil Procedure and not to the Proposed Final Draft of 9 March 2004.**