



**SUMMARY
OF THE CONCLUSIONS REACHED BY THE GOVERNING COUNCIL
AT ITS 82nd SESSION**

(Rome, 26 to 28 May 2003)

Item No. 1 on the agenda: Adoption of the agenda

The Council adopted the agenda as proposed.

Item No. 2 on the agenda: Report on the activity of the Institute

The Governing Council took note of the Secretary-General's report regarding the Institute's activities in 2003.

Item No. 3 on the agenda: Appointment of the First and Second Vice-Presidents of the Governing Council

The Council appointed Mr R. Loewe as First Vice-President and Mr A. Harmathy as second Vice-President until its 83rd session.

Item No. 4 on the agenda: Principles and rules of transnational civil procedure

The Governing Council expressed its satisfaction with work accomplished by the Joint ALI/UNIDROIT Working Group for the preparation of Principles and Rules of Transnational Civil Procedure, agreed to the setting up of a Steering and Revisions Committee as proposed by the Secretary-General, and requested the Secretariat to circulate the revised drafts among its members with a view to collecting their observations so as to permit the Steering and Revisions Committee to submit the final draft Principles and draft Rules of Transnational Civil Procedure to the Governing Council for approval at its next session in 2004.

Item No. 5 on the agenda: International interests in mobile equipment

The Governing Council took note with satisfaction of the continuing good progress being made with implementation of the Cape Town Convention and Aircraft Protocol, and in particular the fact that there was a very good chance that they would enter into force in the first half of 2004.

The Governing Council noted however that the Finance Committee had not been able to implement the recommendations made by the Governing Council at its 81st session for the making of provision in the budget for 2003 for the taking on of a new professional to take care of the Institute's depositary functions under the Cape Town Convention and Aircraft Protocol and the acquisition of the necessary software support, essentially because of the late date in the budgetary cycle at which it had been seised of these recommendations, but that the chances of it being agreed that such provision should be made in the draft budget for 2004 appeared very good, in particular on the basis that the decision by the Cape Town diplomatic Conference to confer depositary functions upon the Institute was to be seen as creating an international obligation for UNIDROIT member States.

The Governing Council took note with concern of the delay in rendering the International Registry for aircraft objects intended to be set up under the Aircraft Protocol operational, in particular in view of the important duties that the Institute would have to perform, as depositary, in relation thereto. The Council noted that I.C.A.O. had still to receive U.S.\$ 231,084.94 of the amount budgeted by the Preparatory Commission for the international tendering process for the appointment of the Registrar to run the International Registry and those other steps required to make the latter operational over a period of nine months, even if one member State had informally indicated its willingness to supply U.S.\$ 90,000 of the shortfall and the Aviation Working Group had formally indicated its willingness to supply a further U.S.\$ 50,000 on condition that other major stakeholder States provided the remainder. The Council noted that the Cape Town Convention and the Aircraft Protocol could not enter into force until the Supervisory Authority of the International Registry had certified that the latter was fully operational and passed a Resolution, first, urging UNIDROIT member States to do all in their power to enable the Preparatory Commission to complete its work by the time of the entry into force of the two instruments, in particular by launching an appeal to those sectors with an undoubted interest in their early entry into force and, secondly, urging those States contemplating becoming Contracting States while the International Registry was still not fully operational to make the effectiveness of their instruments of ratification, acceptance, approval or accession dependent on the Supervisory Authority's certification that the International Registry was fully operational.

The Governing Council took note with satisfaction of the consensus that had been established around the latest version of the preliminary draft Rail Protocol at the third session of governmental experts but noted that regional seminars would need to be organised in particular in those parts of the world which did not yet form part of that consensus before there could be any question of it authorising the transmission of the preliminary draft Rail Protocol to a diplomatic Conference and that the question as to whether or not a fourth session of governmental experts would be necessary could only be decided in the light of the outcome of such a programme of seminars. In this context, the Council took note with satisfaction of the seminar being planned for Central and Eastern Europe towards the end of 2003 and that being planned for Central America in late October 2003.

The Governing Council also took note with satisfaction of the impending convening of a first session of governmental experts to consider the preliminary draft Space Protocol and of the Secretariat's continuing efforts, in particular within the context of the United Nations Committee for the Peaceful Uses of Outer Space, to build interest in this project and to identify the body best suited to act as Supervisory Authority of the future International Registry for space assets. The Governing Council took note with particular satisfaction of the fact that for the first session of governmental experts the Institute would be able, for the first time, to use the meeting facilities of the Food and Agriculture Organization of the United Nations on a rent-free basis.

The Governing Council took note with satisfaction of the success being enjoyed, in terms of sales, by Sir Roy Goode's Official Commentary on the Cape Town Convention and Aircraft Protocol.

The Governing Council noted that at the appropriate moment it would be necessary for the Institute to organise seminars in different regions to combat the persistent lack of awareness of the Cape Town Convention and Aircraft Protocol being reported in certain parts of the world.

Item No. 6 on the agenda: Principles of international commercial contracts

The Governing Council noted with satisfaction the considerable progress that had been made on the preparation of Part II of the UNIDROIT Principles of International Commercial Contracts and expressed its hope that on the occasion of its next session it would be in a position to approve the publication of the new consolidated edition of the Principles .

Item No. 7 on the agenda: Uniform Rules applicable to Transport

The Governing Council took note of the developments that had taken place in relation to the preparation of a Protocol to the CMR on electronic consignment notes, as well as of Mr Putzeys' concern at the direction in which work was progressing in the ECE Inland Transport Committee. The Council shared Mr Putzeys' concern, and agreed that it should be expressed to the United Nations Economic Commission for Europe as follows:

"The Governing Council has taken note of the latest work of the Inland Transport Committee – SC 1 – of the Economic Commission for Europe of the United Nations with a view to the preparation of an additional Protocol to the 1956 C.M.R., the effect of which would be expressly to permit the use of an electronic consignment note.

The Governing Council shares the almost unanimous view that, for reasons of legal technique, it is not possible to amend C.M.R., even very partially, and expresses its concern at any initiative of this kind. It accordingly considers that the draft additional Protocol should be limited to authorising the use of an electronic consignment note on the basis of a functional equivalence.

The Governing Council would regret any initiative going beyond such a limit and UNIDROIT could not co-operate in any such initiative."

Item No. 8 on the agenda: Transactions on transnational and connected capital markets

The Council took note with satisfaction of the information provided by the Chairman of the Study Group and the Secretariat on the progress of the project and the keen international attention it meets.

Item No. 9 on the agenda: Status of implementation and promotion of UNIDROIT Conventions

The Council took note of the developments that had taken place since its last session with regard to ratifications and implementation of UNIDROIT conventions.

Item No. 10 on the agenda: Programme of Legal Co-operation

The Governing Council took note of the information communicated by the Secretariat. It approved the report of the Scholarships sub-Committee, and adopted Resolution (82) 2:

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RECALLING that the *Research Scholarships Programme* was established in 1992 as part of the *Legal Co-operation Programme*, to accompany the legislative harmonisation activity of the Institute and to make the most of its internationally renowned documentary resources in the field of international private and comparative law and uniform law;

CONSIDERING the importance of the *Research Scholarships Programme* for the study and development of international private and comparative law and uniform law, and its role in promoting the harmonisation and modernisation process in the field of private and commercial law in the research scholars' countries of origin - primarily developing countries and countries in economic transition;

STRESSING that the *Research Scholarships Programme* makes a significant contribution in publicising and promoting the Institute's instruments, work and activities in the research scholars' countries of origin;

RECALLING that the *Research Scholarships Programme* depends mainly on funding by voluntary donors, and that even a modest contribution by such donors can effectively help to maintain the Programme;

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to the donors which have, to date, extended their support to the *Research Scholarships Programme* and in particular to those which continue to do so;

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all member States of UNIDROIT to sponsor the Programme by means of voluntary contributions, either on an *ad hoc* or an annual basis, subject, if need be, to any relevant condition in respect of the way in which the grants are to be used (restrictions as to the geographical origin of applicants or their area of research).

Item No. 11 on the agenda: Uniform Law Review/Revue de droit uniforme and other publications

The Governing Council took note with satisfaction of the information it had received on this subject.

Item No. 12 on the agenda: The UNIDROIT web site and depositary libraries for UNIDROIT documentation

The Governing Council took note with satisfaction of the information given on this subject.

Item No. 13 on the agenda: The Uniform Law Data Base

The Governing Council noted with satisfaction the progress made on the setting up of the uniform law data base (UNILAW).

Item No. 14 on the agenda: Situation of the library

The Council noted with satisfaction the progress which had been made and congratulated the Library and the responsible librarian on the remarkable achievements.

Item No. 15 on the agenda: Results of the Second Joint Informal Brainstorming Session

The Council expressed its satisfaction with the way the Brainstorming Sessions had been prepared and conducted.

The Council noted the importance of drawing up a Strategic Plan and of monitoring its implementation on the basis of significantly improved resources.

The Council approved the proposals made with respect to harmonising programming cycles and terms of office of the Institute's organs.

The Council instructed the Secretary-General to convey its views and deliberations to the incoming Council so as to secure continuing support for these conclusions.

Item No. 16 on the agenda: Appointment of correspondents of the Institute

The Council decided to appoint Ms Amelia Boss (United States of America), Ms Huang Danhan (China), Mr Joseph Issa-Sayegh (France-Senegal), Mr Michel Deschamps (Canada) and Ms Inés Weinberg de Roca (Argentina) as correspondents of the Institute.

Item No. 17 on the agenda: The Uniform Law Foundation

The Council noted the proposed development of the Uniform Law Foundation and agreed to the proposed modifications to its Statute.

Item No. 18 on the agenda: Preparation of the draft budget for the 2004 financial year

The Governing Council commended the Secretariat for its success in keeping expenses down and in maintaining the arrears in member States' contributions at a low level and approved the draft Budget for the 2004 financial year, with a view to its submission to the Finance Committee and to the General Assembly.

Item No. 19 on the agenda: Date and Place of the 83rd session of the Governing Council

Seeing as new members of the Governing Council will be elected by the General Assembly at its 57th session on 28 November 2003, the date and place of the 83rd session of the Governing Council will subsequently be decided. As soon as it will become clear which ones of the members of the outgoing Council will stand for re-election, the Secretariat will consult with them with a view to identify dates convenient to them.

Item No. 20 on the agenda: Other business - Request for the temporary use of UNIDROIT premises

The members of the Governing Council, considering:

- that the request was, in both cases, for a temporary use,
 - that the temporary use would not affect the implementation of the Scholarships Programme which they considered to be very important for the dissemination of information on the activities of UNIDROIT in the countries of origin of the scholars (developing countries and countries in transition),
decided
- (a) to consent to a temporary use of three offices on the top floor,
 - (b) to fix the duration of the temporary use of these offices in six months,
 - (c) to reply positively to the request to host the new Italian office of UNIDO,
 - (d) that UNIDROIT must be exempted from any expense (telephone, heating, electricity, redecoration and staff),
 - (e) that the Secretariat should inform the new Governing Council of the termination of the temporary use of these UNIDROIT offices.