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**Item No. 8(a) on the agenda: preliminary draft Convention on Substantive Rules
regarding Intermediated Securities**

(memorandum prepared by the Secretariat)

<i>Summary</i>	<i>State of progress on the preliminary draft Convention on Substantive Rules regarding Intermediated Securities</i>
<i>Action to be taken</i>	<i>Confirm or change priority assessment in light of budgetary situation</i>
<i>Related documents</i>	<i>Study LXXVIII – Doc. 42 Study LXXVIII – SEM 1; SEM 2; SEM 3</i>

DISCUSSION LEADING PARAMETERS AS PROPOSED BY THE SECRETARIAT



I. Strategic Plan




Yes, because of UNIDROIT'S unique position to carry out work on capital market law (cf. Strategic Objective No. 1).

II. Work Programme 2006-2008

Yes.

III. Current assessment

The high number of Member States and Observers participating in the Committee of Governmental Experts for the preparation of a draft Convention on this subject suggests high priority.

On time	 yes	 slightly delayed	 no
	Timeframe determined by CGE/Governing Council/General Assembly <input type="checkbox"/>		
	Timeframe to be determined at this session <input checked="" type="checkbox"/>		
Problems to be overcome	None		
Staffing implications	2006: 1 Officer, 1 associate Officer, 0.5 secretaries 2007: 1.5 Officers, 1 associate Officer, 1 secretary		
Budget implications	(1) Third party funding for Officer in charge to expire end of 2006. Need to make provisions under 2007 budget or identify sources for continued third-party financing (2) Possibly problems with funding fourth session of the CGE, if any.		
Recommendations/ Guidance sought/ Decisions to be taken/ Alternatives?	Determine priority if fourth session of the CGE necessary.		

BACKGROUND

1. The project was started in September 2001 on the assumption that legal certainty and economic efficiency in the global securities market suffer from inconsistencies inherent in the phenomenon of holding securities through intermediaries.

2. Upon approval of the Study Group's preliminary draft by the Governing Council a first session of the *Committee of Governmental Experts for the preparation of a draft Convention on substantive rules regarding intermediated securities* ("CEG on Intermediated Securities") was held in Rome from 9 to 20 May 2005. The main documents were the preliminary draft text of the instrument (UNIDROIT 2004 – Study LXXVIII Doc. 18) and the explanatory notes (Doc. 19). 32 Member States and 12 observers attended with a total of 101 delegates. The text of the preliminary draft instrument was amended as set out in Doc. 24.

3. Following recommendations of the CEG on Intermediated Securities, the Secretariat organised inter-sessional work:

Seminars were held in Bern (September 2005, 33 participants from 13 Member States), São Paulo (October 2005, 35 Participants from 6 Member States), and Paris (January 2006, 49 participants from 17 Member States).

Two inter-sessional working groups dealt with specific issues that had arisen during the first session of the CEG (cf. *Report on Article 19*, Doc. 25 and *Report on Legislative Techniques and Implementation*, Doc. 26).

4. The second session of the CEG on Intermediated Securities was held in Rome from 6 to 14 March 2006. 37 Member States, 2 non-Member States and 11 observers attended with a total of 121 delegates. The text of the preliminary draft instrument was amended as set out in UNIDROIT 2006 Study LXXVIII Doc. 42. The report of the session is currently under preparation.

5. At its second session in March 2006 the CEG decided that inter-sessional work in form of two informal working groups should be organised by the Secretariat on (a) issues related to good faith acquisition, and, (b) so called "transparent systems".

6. The third session of the CGE on Intermediated Securities is to be held in Rome from 6 to 15 November 2006.

7. If a fourth session were to be considered necessary to finalise the draft text, it will be held in early 2007.

8. A Diplomatic Conference is planned to be held in late 2007. The Secretariat commenced informal discussions with a potential host State for the diplomatic Conference.

ACTION TO BE TAKEN

9. *The Secretariat would invite the Governing Council to support the Secretariat's efforts to identify adequate funding of the officer's post in 2007 and to determine the relative priority of a fourth session of the Committee of governmental experts, if necessary.*