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Item No. 13 on the Agenda : Legal Co-operation Programme

(prepared by the Secretariat)

<i>Summary</i>	<i>Information on</i> • <i>the Research Scholarships Programme</i> • <i>Action in support of legislative work</i> • <i>Co-operation with OHADA in drafting a Uniform Act on contracts</i>
<i>Related Documents</i>	<i>A.G.(56)2 ; Study LXV – Scholarships Impl. 18 rev., C.D.(85)4 and 19</i>

PRINCIPAL PARAMETERS FOR DISCUSSION PROPOSED BY THE SECRETARIAT

Priority			
	high	medium	low

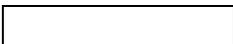
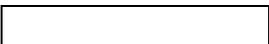
I. Strategic Plan

- General Objective : 'Assistance to development through law' – cf. para. 9.
- Strategic Objective 2 : elaboration of research facilities and capacity-building;
- Strategic Objective 3 : the conversion of legislative capabilities into proactively employed outreach resources (cf. para 24-31)

II. Work Programme 2006-2008

Yes

III. Current Assessment

On time			
	yes	slightly delayed	no

Objectives	To propose a dynamic Legal Co-operation Programme within the confines of the Secretariat's limited financial and human resources
Staffing Implications	One research officer (part-time) One part-time secretary to deal with the logistics of the Scholarships Programme
Budgetary Implications	Research Scholarships Programme: UNIDROIT Budget Chap. 11 : in 2006 : €15,000; in 2007: € 10,000; Voluntary contributions (paid in 2006, spent in 2006/2007): € 35.950 Preparation of a draft OHADA Uniform Act on contract law: extra-budgetary grant from the Swiss Government in September 2003 (CHF 190,000 – approx. € 120,000) Strengthening the ties with ASEAN member States by way of capacity-building, workshops etc. (€ 10,000 extra-statutory contributions in kind and in cash pledged; further pledges sought) Obtaining funding (by voluntary contributions) for the colloquium on "The harmonisation of the OHADA law of contracts", Ouagadougou 15-17 November 2007
Recommendations/ Guidance sought/	Cf. § 9 <i>infra</i>

Introduction

1. The special needs of developing countries and countries in economic transition when modernising their legal infrastructure in response to the challenges of trade globalisation, are one of UNIDROIT's main concerns and are a major focus of its legislative work.¹ However, specific action is required to boost the impact of that work – and this is especially true of a small organisation whose achievements are yet too little known –, with a view to providing beneficiaries with appropriate information on the existence and practical implementation of the instruments prepared by the Institute, and to give them access to expertise in the relevant subject matter.

2. The *Legal Co-operation Programme*² can take many forms. However, the Secretariat has consistently sought to focus its efforts on those activities with the highest cost/benefit ratio to make the best of the very modest, indeed marginal, resources at its disposal. The emphasis has accordingly been on • the research scholarships programme for lawyers from developing countries and countries in economic transition • support in the shape of publicity for the Institute's legislative work in member and non member countries (organisation of seminars, promotion of institutional and personal contacts, dissemination of information through its publications and via the Internet, etc.) to enable the legal community in these countries to become more closely involved with UNIDROIT's work and to take full advantage of the corresponding benefits • *ad hoc* technical support, a particularly telling example being the preparation of a draft

¹ The preparatory work on all instruments under preparation refers to developing countries and countries in economic transition as privileged beneficiaries (model law on leasing ; international interests in mobile equipment ; UNIDROIT Principles, harmonised rules for emerging financial markets.

² As regards the objectives of and means available to the Legal Cooperation Programme, *cf.* the detailed report prepared by the Secretariat for the General Assembly at its 2002 session (*cf.* A.G. (56)2).

OHADA Uniform Act on contract law or the ASEAN initiative discussed at the Council's 85th session (C.D.(85)4 and 19). Details of these various activities are set out below.

I. – THE RESEARCH SCHOLARSHIPS PROGRAMME 1993-2007

3. Reference is made to the document prepared for the 83rd session (2004) of the Governing Council (cf. G.C. (83) 14). As to the annual implementation report for 2006 : see Study LXV - Scholarships: Impl. 18 rev.

(a) Objectives

4. In brief:

- **166 researchers** have been hosted by UNIDROIT to date, funded in full or in part by UNIDROIT or by external donors, for stays of two months' average duration, to conduct research connected with UNIDROIT instruments – or on uniform law in general. These top-level researchers generally derive maximum benefit from the considerable resources of the UNIDROIT Library;
- the scholars' **countries of origin also benefit**, in respect of the modernisation of law, the implementation of uniform law instruments, training and information (through articles, advice to Governments, updating of university curriculae, etc.);
- **considerable spin-off for UNIDROIT**: former scholars constitute a network of experts in more than 50 countries who help to reinforce member States' part in the life of the Institute and to forge academic or institutional links with non member States and with other international organisations, all of which elements play a key role in promoting and propagating UNIDROIT's work.³

(b) Resources

5. Despite an increase over the 2006 financial year, the resources allocated to the Programme remain modest.

- **Allocation of Chapter 11 of the Budget**: following the decision of the General Assembly at its 60th session on 1 December 2006 to reduce the € 15.000 allocation granted in 2006 to € 10.000 in 2007, this now stands at 0.55% of member States' contributions other than those of Italy, well below the 1% target set when this budget item was first created (and which would bring the total to € 17.900). Although the budget allocation covers the Legal Co-operation Programme in general, most of the funds go towards financing the research scholarships.
- **Voluntary contributions by external donors**: The Secretariat is pleased to give an encouraging account. In addition to the Governments of the Republic of Korea and of the People's Republic of China, who have been contributing to the Programme for years, new

³ Some former UNIDROIT scholars now occupy key posts in their respective Governments and have become spokesmen for UNIDROIT within their respective departments. Several of them have been appointed UNIDROIT correspondents, and one other has become a correspondent of the Review; no few of them have participated (also as representatives of their Governments) in meetings and seminars organised by UNIDROIT; negotiations in view of the accession of new member States are now underway thanks to the efforts of former UNIDROIT scholars; - institutional links have been established with other international organisations, among which OHADA and SADC; - there are innumerable examples of ex-scholars translating UNIDROIT instruments and promoting them in their countries of origin, which in some cases has led to their ratification by these countries.

donors joined the ranks in 2006: the Government of Italy (Ministry of Foreign Affairs) for an *ad personam* part-scholarship and the Government of Spain for 4 scholarships; the members of the UNIDROIT Governing Council (1 scholarship) and the Secretary-General of UNIDROIT (1 scholarship); finally, the *UK Foundation for International Uniform Law* (1 4-month scholarship).

The Secretariat hopes that these donors will renew their support 2007 and that new donors will agree to make funds available.

II. – TECHNICAL ASSISTANCE TO AID THE IMPLEMENTATION OF UNIFORM LAW INSTRUMENTS

6. This activity is intended to help promote understanding of how UNIDROIT legislative instruments work and how they can be applied at the national level, particularly with the developing countries and countries in economic transition in mind.

7. Moreover, the Secretariat seeks to ensure efficiency in its co-operation with Governments and other international organisations in order to rationalise the use of resources and improve the quality of its work. Seminars are excellent vehicles in this respect, among which it is worth mentioning:

- At its 85th session, the Council endorsed the Secretariat's proposal of an initiative targeting the ASEAN member States and designed to enhance Government agencies' in-house capacity to implement uniform law instruments.

- International Trade Centre (ITC – WTO/UNCTAD): the ITC organised two workshops in Vietnam (Hanoi) from 9-10 October 2006 and in Romania (Bucharest) on 14 December 2006 as part of its information and promotional programme in the field of trade and investment. These meetings were attended by representatives of the Ministries of Trade, Justice and Foreign Affairs, as well as by practitioners and academics. Presentations were made regarding the UNIDROIT instruments, opening up prospects for accession or ratification by these countries.

- African Union: Workshop on the harmonisation of business law in Africa, Tshwane, South Africa, 12-14 December (organised together with the South African Ministry of Trade and Industry). UNIDROIT's involvement in this project from its very inception should ensure proper coordination of any future co-operation, and was instrumental in strengthening its connections and contacts in Africa.

- Seminar "Prima Jornada De Derecho Procesal Transnacional" organised by the *Instituto Colombo Panameño de Derecho Procesal* – Panama, 1-2 February 2007. Two presentations were made at this seminar regarding the work of UNIDROIT: one on the UNIDROIT Principles of International Commercial Contracts, the other on the ALI/UNIDROIT Principles of Transnational Civil Procedure. The meeting provided an opportunity for closer contacts with government circles in Panama with a view to the country's possible accession to UNIDROIT.

III. – COOPERATION WITH OHADA TO DRAFT A UNIFORM ACT ON CONTRACTS

8. The draft OHADA Uniform Act on contract law prepared by UNIDROIT, drawing on the UNIDROIT Principles, at the request of the OHADA Council of Ministers (and drafted, together with an Explanatory Note, by Professor Marcel FONTAINE, Belgian member of the working group on the UNIDROIT Principles, with financial support from the Swiss Government (Development and Co-operation Department) was submitted for scrutiny by the National Committees of the OHADA member States in 2005.

9. With a view to stimulating the consultation process and promoting an exchange of views on the draft Uniform Act, UNIDROIT proposed – at the Governing Council session held in May 2006 – to organise a Colloquium in Africa. Since that time, after extensive soundings with experts and institutions likely to be interested in such a meeting, and in particular the offer made by the Law Faculty of the University of Ouagadougou (Burkina Faso) to host the colloquium (which will take place from 15 to 17 November) and the formal support of the OHADA Permanent Secretariat, the time has now come to identify financial sponsors to cover the cost of organising the meeting in loco and to finance the travel costs of African participants. The members of the Governing Council will receive further information regarding the Programme of this colloquium later on, and the Secretariat will also invite them to intercede with the authorities in their respective countries regarding a request for financial support to be introduced in due course.

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