



EN

GOVERNING COUNCIL
88th session
Rome, 20-23 April 2009

UNIDROIT 2009
C.D. (88) 9
Original: English
March 2009

Item No. 11 on the Agenda: Strategic Plan

(memorandum prepared by the Secretariat)

<i>Summary</i>	<i>Full review of progress and delays regarding the implementation of the Strategic Objectives</i>
<i>Action to be taken</i>	<i>The Governing Council, at its 88th session, will be called upon to review the document, to take note of the progress made in the implementation of the Strategic Plan and to consider the desirability of requesting the Secretariat to submit more information for consideration by the Council at its 89th session, in 2010</i>
<i>Mandate</i>	<i>Governing Council, 82nd session (UNIDROIT 2003 – C.D. (82) 21, Report on the Session, p. 27)</i>
<i>Priority level</i>	<i>N.a.</i>
<i>Status</i>	<i>N.a.</i>
<i>Related documents</i>	<ul style="list-style-type: none">• <i>Strategic Plan – Horizon 2016, UNIDROIT 2004 – C.D. (83) 6</i>• <i>UNIDROIT 2003 – C.D. (82) 21</i>• <i>UNIDROIT 2002 – IBS Docs. 1 and 2</i>

TABLE OF CONTENTS

I.	Introduction	2
II.	Legislative activities	3
III.	Promotion, implementation of adopted UNIDROIT instruments (or instruments based on UNIDROIT drafts) and legal co-operation	6
IV.	Non-legislative activities	8
V.	Membership and governance	11
VI.	Administration, support services and office space management	13
VII.	Conclusion	15

I. INTRODUCTION

1. On the occasion of the 75th Anniversary of the founding of UNIDROIT and the 81st session of the Governing Council, a joint Informal Brainstorming Session, attended by representatives from 44¹ of the (then) 59 member States of the Organisation, was convened on 26 September 2002. The Session was chaired by Mr Roland LOEWE (Austria, then First Vice President of the Governing Council) and moderated by Mr Peter WINSHIP (United States of America). On the basis of written submissions by the Government of Canada and Mr Pierre WIDMER, then member of the Governing Council, as well as a discussion paper submitted by the Secretariat (*UNIDROIT 2002 – IBS – Doc. 1*), a wide range of issues, including the constitutional framework, membership, recent achievements, working methods, working languages, non-legislative activities, the Secretariat's resources, budget structure and development, were discussed. A report on this first session was drawn up by participants and the Secretariat (*UNIDROIT 2003 – IBS – Doc. 2*).

2. A second joint Informal Brainstorming Session was held on 4-5 April 2003. It was attended by representatives of 31² member States and 6 members of the Governing Council.³ Mr LOEWE and Mr Jacques PUTZEYS had made written submissions, while the Secretariat had submitted a discussion paper (*UNIDROIT 2003 – IBS – Doc. 3*). The Session, moderated by Mr Ian GOVEY (Australia, currently member of the Governing Council), was devoted mainly to the budget, the various elements of UNIDROIT'S work, the possible membership of the European Union and co-ordination with other intergovernmental Organisations. A report on this Session was drawn up by the Moderator and the Secretariat (*UNIDROIT 2003 – IBS – Doc. 5*). During the Session, a consensus emerged for the Secretariat to draw up a *Strategic Plan* to examine – in the short, medium and long-term perspective – the Organisation's tasks and objectives, its priorities with respect to the various branches of its activities, the resources at its disposal, existing and possible future staffing levels, options regarding the structure and the development of the budget. The participants further concluded that *both the incumbent and the new Governing Council*, which was to be elected at the end of 2003, should be apprised of the results of the Informal Brainstorming Sessions and that the *incoming Governing Council, in close co-operation with the member States' Governments*, would have to *take the necessary action*.

3. The reports on both Informal Brainstorming Sessions were discussed by the Governing Council at its 82nd session held in Rome from 26-28 May 2003 (*cf. UNIDROIT 2003 – G.C. (82) 15*). The Council, expressing its satisfaction with the way the Brainstorming Sessions had been prepared and conducted, *inter alia*,

(a) noted the importance of drawing up a Strategic Plan and of monitoring its implementation on the basis of significantly improved resources, and

1 Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, China, Colombia, Croatia, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Holy See, Hungary, India, Iran, Ireland, Italy, Japan, Mexico, Netherlands, Poland, Portugal, Republic of Korea, Slovenia, Romania, Russian Federation, Slovak Republic, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, United Kingdom, United States of America, Uruguay and Yugoslavia.

2 Argentina, Australia, Austria, Belgium, Bulgaria, Brazil, Canada, China, Colombia, Denmark, France, Germany, Greece, Holy See, India, Ireland, Italy, Japan, Mexico, Netherlands, Poland, Republic of Korea, Russian Federation, Serbia and Montenegro, Slovakia, Slovenia, Spain, Switzerland, Sweden, Turkey, United Kingdom and United States of America.

3 For reasons of budgetary restrictions, only a limited number of Members of the Council could attend. In attendance: Mr Bernardino LIBONATI (President), Mr Roland LOEWE (First Vice President), Mr Michael ELMER, Mr Jacques PUTZEYS, Ms Anne-Marie TRAHAN, Mr Joannis VOULGARIS.

(b) instructed the Secretary-General to *convey its views* and deliberations *to the incoming Council* so as to secure continuing support for those conclusions (*cf* UNIDROIT 2003 – C.D. (82) 21, *Report on the Session*, p. 27).

4. The Secretariat developed thereafter a Strategic Plan, which was presented first to the General Assembly at its 57th session, on 28 November 2003 (UNIDROIT 2003 – A.G. (57) 3) and then to the Governing Council at its 83rd session in 2004 (UNIDROIT – *Strategic Plan Horizon 2016* (C.D. (83) 6)). The Strategic Plan was designed to cover the immediate as well as the medium-term future up to the year 2016, when the 90th Anniversary of the founding of UNIDROIT will be commemorated, and it was therefore called “Horizon 2016”.

5. The Secretariat pointed out in that document that priorities ought to be identified *within* the three branches of UNIDROIT activities (legislative, research/documentation/publication, legal co-operation) rather than *among* them. The document identified areas where the realisation of the strategic objectives implied increases in the Budget. The Secretariat stressed that the Strategic Objectives set forth in that document, the measures taken to achieve those objectives and the results obtained were expected to be monitored and reported on to the organs of the Institute and that the Strategic Plan would have to be updated from time to time.

6. Since the formulation of the Strategic Plan, it has become customary for the Secretariat to submit annually to the Governing Council and to the General Assembly documents presenting the progress made by the Secretariat in the implementation of the Strategic Plan during the reporting period. In these reports, the strategic objectives have been customarily grouped according to their relevance for the various activities undertaken by UNIDROIT. This report essentially maintains that structure.

7. It should be noted that the strategic objectives set forth in the Strategic Plan combine both policy options and concrete measures. Some of these fall under the competence of the Secretary-General, while some require co-operation or support by other organs of UNIDROIT or by Governments of member States. Even those measures that can be decided upon by the Secretary-General without prior consultation with or authorisation by the President, the Governing Council or the General Assembly, may in practice be predicated in their effectiveness by the extent of resources made available to the Secretariat. In October 2008, the Secretariat launched a comprehensive review of the status of progress in the organisational areas that fall primarily under the Secretary-General’s authority. Four working groups were established to review individual areas (archiving of correspondence and documents; architecture of the computer network and information technology system; information services offered by UNIDROIT; the Scholarships and internship programmes; and the Management of the space of the *Villa Aldobrandini*). The conclusions and recommendations of these working groups were submitted in February 2009 and the Secretariat has started to implement them. To the extent that the measures under way are relevant for the Governing Council’s deliberations on the Strategic Plan, they are referred to in this document (see, in particular, paras 40, 54 and 60).

II. LEGISLATIVE ACTIVITIES

8. UNIDROIT is currently engaged in three legislative projects at an advanced stage of progress: (a) the draft Convention on intermediated securities; (b) the preparation of additional chapters to the UNIDROIT Principles of International Commercial Contracts; and (c) the preparation of a draft Space Protocol to the Cape Town Convention.

9. The progress made in respect of each of these projects since the 87th session of the Governing Council has been summarised in the annual report on the activities of the Institute (cf. C.D.(88) 2). Additional information on those projects is also provided in the relevant documents before Governing Council. The expected budgetary implications of the ongoing work in respect of these legislative projects and promotional activities are indicated in the document on the Triennial Work Programme of the Organisation (2009 – 2011) (C.D. (88) 7). That information will not be repeated here. Instead, the following paragraphs are limited to an interim review of the purpose of the relevant strategic objectives five years after it was first stated.

- *Strategic Objective No. 1:* the preparation and implementation of international instruments (conventions, model laws, statements of principles, etc.) of the highest possible quality by applying strict criteria of scientific rigour and commercial viability and having regard to the legal implications of regional integration processes in the context of global law-making.

10. The introduction to this objective in the Strategic Plan recalls the views shared by member States that “the instruments (conventions, model laws, statement of principles) prepared by UNIDROIT are, in general, of high technical quality and would therefore merit wide adoption by States and interested private parties” and that “the Organisation should continue to be entrusted with the preparation of such instruments” (para. 17). The Strategic Plan also noted that “UNIDROIT is seen as being capable of responding to the new challenges of regional economic integration at varying speed and with differing objectives” (para. 17).

11. The inclusion of Strategic Objective No. 1 in the original Strategic Plan served the useful purpose of focusing the Secretariat, the governing bodies of UNIDROIT, and representatives of member States on the importance of applying strict criteria of scientific rigour and commercial viability with a view to ensuring that UNIDROIT maintains its distinct position in the legal harmonisation and modernisation process at the global level. The Secretariat submits that the attention drawn to this aspect has since borne fruit and that the underlying policy expressed in this strategic objective has become a constant benchmark in assessing the quality of the work of UNIDROIT at the concrete project level, the value added by UNIDROIT undertaking a particular legislative activity and the usefulness of the expected output.

12. *The Secretariat therefore submits that this strategic objective may be regarded as having been essentially achieved and that it may no longer figure as such in the Strategic Plan, which was conceived as a set of objectives limited in time. Instead, it is suggested that this objective be treated as a standard criterion for the evaluation of the work of UNIDROIT.*

- *Strategic Objective No. 6:* increased sensitivity to the potential of both industry and the legal profession to contribute criteria for selection, priorities, evaluation of working methods, procedures and results with a view to securing their support for the adoption and implementation of UNIDROIT instruments.

13. The introduction to this objective in the Strategic Plan notes that “the preparation of recent instruments, in particular in the area of banking and finance but also in that of contract and procedural law, has seen an exponential increase both in the interest evinced by and the active participation of the industries concerned, the legal profession, arbitral institutions, etc.” (para. 40). The Strategic Plan also points out “the benefits of this development” for the organisation but also “the challenges involved in maintaining its impartiality and credibility and producing high quality, balanced instruments” (para. 41).

14. The Secretariat submits that the inclusion of this objective in the original Strategic Plan served the useful purpose of focusing the Secretariat, the governing bodies of UNIDROIT, and representatives of member States on the importance of bearing in mind the practical impact of the rule-making projects of UNIDROIT from the point of view of the industries and practitioners operating in the areas concerned.

15. Industry representatives, legal practitioners and other private sector experts have been involved, in an advisory capacity, in most if not all legislative projects of UNIDROIT. This was already the case even prior to the formulation of the Strategic Plan, as demonstrated by the high level of activity of the legal profession in the Study Group on Franchising, of industry representatives in the work that led to the adoption of the Cape Town Convention and its two protocols, as well as in the ongoing consultations concerning the Draft Space Protocol.

16. The Secretariat suggests that the underlying policy expressed in this strategic objective has in fact become a constant benchmark in assessing the practical relevance of the work of UNIDROIT at the concrete project level, as well as the value added by UNIDROIT undertaking a particular legislative activity and the usefulness of the expected output. *The Secretariat therefore submits that this strategic objective may be regarded as having been essentially achieved and that it may no longer figure as such in the Strategic Plan, which was conceived as a set of objectives limited in time. Instead, it is suggested that this objective be treated as a standard criterion for the evaluation of the work of UNIDROIT.*

17. Nevertheless, the Secretariat is of the view that there might still be scope for translating this general principle into more concrete objectives.

18. Over the years, UNIDROIT has maintained a very good co-operation with the private sector. This could be expanded to exchanges of ideas out of the formal context of particular projects, in the form, for instance, of more or less periodic briefings with the private sector in the future. Consultations of this type might offer a meaningful forum for identifying practical needs for further harmonisation and devising the best ways to approach them. Enhanced transparency of proceedings, for example by issuing press releases or reporting the results of such consultations, could help ease possible concerns about undue influence by lobbying groups.

19. Another possible way of gaining the support of the private sector could be to mainstream economic analysis into the decision-making process that leads to the formulation of uniform law instruments.⁴ This would make it easier to gain the support of private sector representatives and legal practitioners for proposed new projects. UNIDROIT could take the lead in launching, together with other formulating agencies, a broad study on the economic benefits of legal harmonisation in general.⁵ The availability of general economic impact studies may be instrumental in removing preconceived ideas and prejudices about the harmonisation process and gaining domestic support for individual uniform law.

20. As regards more specifically the involvement of private sector stakeholders at the actual project stage, the Strategic Plan notes that “their expectations focus, in general, on greater intensity in the preparation and elaboration of instruments, maximum flexibility of working

⁴ As was done in connection with the Cape Town Convention (see Heywood W. FLEISIG, “The Proposed UNIDROIT Convention on Mobile Equipment: Economic Consequences and Issues”, *Unif. L. Rev. / Rev. dr. unif.* (1992), 253 *et seq.*).

⁵ Such a project could have several of the elements proposed by Jeffrey Wool at the UNIDROIT 75th Anniversary Congress (“Economic Analysis and Harmonised Modernisation of Private Law”, *Unif. L. Rev. / Rev. dr. unif.* (2003), 389 *et seq.*)

methods and rules of procedure [...], higher frequency of working sessions, shorter timelines for completion and greater emphasis on monitoring and assisting implementation world-wide once an instrument has been adopted" (para. 41). While the Secretariat fully understands the needs of both lawyers in private practice and industry for work to proceed at a high pace and is happy to accommodate these requirements whenever possible, the experience of the Study Group on Franchising shows that the need to compress the time devoted to meetings may compromise a thorough discussion of drafts and other documents and increase the role of the Secretariat.

21. *The Secretariat should be happy to provide the Governing Council with concrete proposals towards the implementation of this strategic objective should the Council so wish.*

III. PROMOTION, IMPLEMENTATION OF ADOPTED UNIDROIT INSTRUMENTS (OR INSTRUMENTS BASED ON UNIDROIT DRAFTS) AND LEGAL CO-OPERATION

- *Strategic Objective No. 11:* the systematic promotion of and active assistance in implementing, applying and monitoring international instruments elaborated under the Institute's auspices.

22. Unlike the strategic objectives discussed earlier, which may be seen as embodying general criteria for the evaluation of the quality or effectiveness of the work of UNIDROIT, strategic objective No. 11 refers more specifically to an activity or range of activities concretely related to the overall strategic position of UNIDROIT within the spectrum of agencies directly or indirectly involved in the formulation or implementation of uniform law or in the modernisation of domestic laws in the private law area.

23. The experience gained with the promotion of UNIDROIT instruments and, more generally, with legal co-operation since the Strategic Plan was drawn up suggests that the "systematic" realisation of this strategic objective may deserve more detailed reflection than might have been originally anticipated.

24. Lack of co-ordination of foreign assistance to domestic law reform is leading to repeated difficulties in the implementation of international instruments. For several years now, the activities of bilateral or multilateral aid agencies or financial institutions have extended well beyond financing traditional projects (infrastructure, health, and education) to cover also the modernisation of various elements of the legal system of the receiving countries. Assistance to law reform has often included assistance to the preparation of draft legislation on private law matters. Unfortunately, consultants retained by donors often show a clear preference for the law of their country or area of origin and not necessarily for uniform law. The final result may be a new piece of national legislation that either deviates from, or is in outright conflict with, existing uniform instruments on the same matter. In such cases, the public resources that were invested in the preparation of the disregarded international uniform law instruments will to all intents and purposes have been wasted.

25. Ultimately, successful co-ordination depends on persuading the organisations involved of the advantages of co-ordinating the substantive aspect of their assistance to domestic law reform with the work of international formulating agencies.⁶ Two main courses of action may be pursued,

⁶ The former Secretary-General of UNIDROIT described the ultimate objective as follows: "It is hoped that [the World Bank and the International Monetary Fund], in their capacities of multilateral lender and facilitator of structural economic reform and good governance, will increasingly and where available make use of international instruments on commercial law elaborated with the expertise and under the auspices of UNIDROIT, the Hague Conference and UNCITRAL. The advantages in terms of greater legitimacy and acceptability of such

conceivably at the same time: intensified direct contacts and briefing missions with the agencies concerned and interventions through the Governments of their respective member States. The successful example of co-operation between the Secretariat and the International Finance Corporation through the process that led to the adoption of the UNIDROIT Model Law on Leasing encourages the Secretariat to pursue its efforts with a view to achieving increased cooperation with other agencies as well.

26. The Secretariat submits, however, that since the formulation of the Strategic Plan the implementation of this objective has proceeded in a fragmentary rather than systematic manner and that it has been driven more by topical demand than by planned effort. As can be seen in document C.D. (88) 10, a survey of promotional activities in respect of instruments already adopted over the past three years shows a concentration of efforts in the areas of international interests in mobile equipment, principles of international commercial contracts and international protection of cultural property. Other areas in which UNIDROIT has worked hardly appear on the list of promotional activities. There are various reasons for the greater visibility of some topics as compared to others, not least their relative level of acceptance and authority, the existence of industry groups particularly interested in the quick implementation of an instrument, or a partnership with a larger organisation actively engaged in its promotion. Lacking the resources for a comprehensive implementation strategy, the promotional activities of UNIDROIT have remained essentially demand-driven, rather than pro-active as originally envisaged. This means that other UNIDROIT instruments that lack the same level of visibility gradually receive less attention, falling into a vicious circle that eventually compromises their promotion.

27. To a very large extent, however, the limited success in achieving this strategic objective is attributable to the limited resources available. The Secretariat points out that the relevant chapters in the UNIDROIT Budget, namely *Chapter 1, Article 6* (Official journeys of representatives, members of staff and collaborators), *Chapter 10* (Promotion of UNIDROIT Instruments) and *Chapter 11* (Legal Co-operation Programme) have either essentially remained the same for several years or have even been reduced lately, as shown below:

	2005	2006	2007	2008	2009
Chapter 1 – Reimbursement of expenses - Art. 6 (Official journeys of representatives and staff)	28,000.00	28,000.00	28,000.00	28,000.00	28,000.00
Chapter 10 (Promotion of UNIDROIT instruments)	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00
Chapter 11 (Legal co-operation programme)	15,000.00	15,000.00	10,000.00	10,000.00	10,000.00

28. The staffing table represents another evident obstacle: with only 9 professional staff, three of which *hors-cadre*, and one senior consultant, the ability of UNIDROIT to formulate and develop a promotion programme covering a wide range of topics is seriously limited.

instruments as opposed to legislation drafted *ad hoc* by private sector consultants – in many cases in all likelihood paired with lower costs – would appear to be obvious. Consequently, UNIDROIT should further develop and offer its capabilities on the worldwide market for legal reform with a view to being ever more clearly identified by the organizations just mentioned” (Herbert KRONKE, “Which Type of Activity for Which Organization? Reflections on UNIDROIT’S Triennial Work Programme 2006-2008 in its Context”, *Unif. L. Rev. / Rev. dr. unif.* (2006), 135 *et seq.*, 140).

29. Of course, this is not a problem of UNIDROIT alone. Other formulating agencies, too, would seldom have expertise in all areas related to the practical implementation of their texts continuously available for addressing all the needs of receiving countries. The development of joint programmes or implementation strategies in co-operation with other organisations involved in rule-making or law reform in a given area might allow for the development of a standard approach to the implementation of specific standards or instruments (obviously with the necessary adaptations to a country's context) and help create the economy of scale that is needed for developing a credible promotion programme. The input of formulating agencies might be limited to general advice on the elements of such an approach or might – subject to the availability of resources – extend to a greater involvement in specific projects.

30. However, even if the development of joint programmes or implementation strategies in co-operation with other agencies may render more systematic and less sporadic the involvement of UNIDROIT in the promotion of its instruments, it is not a substitute for greater allocation of resources to an area of activity that is chronically and severely neglected.

31. Additional measures to promote uniform interpretation might include supporting programmes for training judges (but possibly also for arbitrators or lawyers) in the interpretation and application of uniform law. This might take the form of seminars especially dedicated to judges or the elaboration of training programmes, a common syllabus or other forms of teaching materials that might be used for training purposes or be incorporated in the curricula of domestic academies or schools dedicated to the training or continued learning of judges. Co-operation with universities and, in particular, with other international organisations with expertise in technical assistance and training for lawyers from developing countries, such as the Rome-based International Development Law Organization (IDLO), might be explored with a view to developing joint programmes. In this context, the role of the UNILAW database in providing information on the practical application of uniform law instruments by national courts could be stressed. For instance, consultation of the database could be used in seminars for training purposes.

32. *The Governing Council may wish to take note of the measures taken by the Secretariat to achieve this strategic objective and to consider the desirability of requesting the Secretariat to present more concrete proposals for consideration by the Council at its 89th session, in 2010. The Governing Council may also wish to request the Secretariat to review the promotion prospects of the whole series of instruments prepared by UNIDROIT, with a view to assisting the Council in considering the relative priority that needs to be assigned to each instrument.*

IV. NON-LEGISLATIVE ACTIVITIES

- *Strategic Objective No. 2:* the further elaboration of the UNIDROIT research and information facilities as the world's leading source of knowledge and capability-building in the field of transnational private law.

33. This strategic objective was formulated at a time when, apart from the website which was created in 1995, the publicly accessible resources, such as the on-line catalogue of the UNIDROIT Library, UNILAW and the electronic version of the *Uniform Law Review* were still incipient. Much has since been done and the situation today bears little resemblance to the state of affairs in 2003, as briefly described below:

(a) *UNIDROIT Library.* The transfer of the catalogue entries to an on-line database and the integration with databases of other leading libraries are now complete. An authority database for corporate authors as well as the integration of the documents of the United Nations Depository Library are under preparation;

(b) *Publications.* The *Uniform Law Review / Revue de droit uniforme* is accessible online at <http://ulr.unidroit.org/>. An index provides access to the full text material (in pdf format) published since 1977. Some texts are freely accessible, while others are available only to authorised users. As is now done regularly, the Secretariat has prepared the *UNIDROIT Proceedings and Papers – Actes et documents d'UNIDROIT* both in a very limited paper version (which is on sale) and on CD-ROM, currently in its 1997-2007 edition; the Secretariat has also prepared a CD-ROM *UNIDROIT Principles of International Commercial Contracts – Preparatory Work 1970-2004* containing the preparatory work relating to the two editions of the UNIDROIT Principles of International Commercial Contracts of 1994 and 2004. The collection, consisting of 154 documents for a total of 5,353 pages in pdf format, comprises the preparatory studies and preliminary drafts prepared by the Rapporteurs on the various chapters as well as the summary records of the meetings of the Working Group.

(c) *Website.* Already active in 1995, the UNIDROIT Internet website has been one of the most important instruments for the promotion of the Institute, as demonstrated by the 41,800 web pages currently linked to it (10,200 when the Strategic Plan was drawn up). Development and updating are being carried out on an ongoing basis. The situation in 2009 is quite different from that in 2003. The website now contains the full text on-line edition of *UNIDROIT Proceedings and Papers* 1997 to the present, which includes the Annual Reports on the activity of the Institute, the decisions taken by the Governing Council at its annual sessions, the reports on the annual sessions of the General Assembly of UNIDROIT member States, the final texts of instruments prepared under the auspices of UNIDROIT, documents concerning current work on instruments adopted as well as the preparatory work, consisting of the studies and reports of the various working groups and committees of governmental experts, on items on the UNIDROIT Work Programme. Moreover, all documents issued by UNIDROIT in connection with the development of the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (Rome, 1995) as well as the pre-1997 preparatory work leading up to the Convention on International Interests in Mobile Equipment (Cape Town, 2001) have been posted on the website and a project is underway to recuperate and make available on the website some UNIDROIT documents predating 1996, namely, for the time being, all documents issued in connection with the Institute's work on international interests in mobile equipment (Study LXXII).

(d) *UNILAW Database.* Progress continues on expanding the UNILAW database. From having only one convention (the *1956 Convention on Contracts for the International Sale of Goods*) in both English and French, the website now has 17 instruments (conventions and protocols) in both languages. An analysis of the instruments has led to the identification of legal issues for each provision, as well as keywords and subjects for each instrument. Most issues, keywords and subjects have been checked and made visible on-line. Bibliographical references to the various instruments have also been inserted, as has the status of ratifications for each, with declarations and reservations. Additional features include summaries of national judicial systems, links to national and international databases, and tables of the cases collected relating to the various instruments.

34. The progress made in the implementation of Strategic Objective No. 2 is therefore obvious. Yet, the extent to which it has been achieved is a question open for debate. For instance, emphasis is placed on "further elaboration" of its research and information facilities; it is undeniable that UNIDROIT has made great progress. If, however, emphasis is placed on becoming the "world's leading source of knowledge and capability-building in the field of transnational private law", the Secretariat cannot but admit that this objective is far from being achieved. The coverage of the website and the *Uniform Law Review* is limited, for the former, to UNIDROIT's own activities, and for the latter, to the contents of the review itself. As regards the database, coverage is fragmentary and by no means close to encompassing the whole body of "transnational private law". The library, on the other hand, has achieved the cataloguing of its holdings, but the financial resources available to the library clearly limit its ability to attain full coverage of transnational private law.

35. If Strategic Objective No. 2 were to be achieved within the time frame originally set, it would seem that UNIDROIT would have one option only, namely: to admit that the original objective was overly ambitious to be achieved by UNIDROIT alone and that it should be down-scaled so as to encompass only the areas in which UNIDROIT has prepared uniform law instruments.

36. Should, however, the Governing Council believe that the original strategic objective must be pursued in its full breadth, it would seem that success could only be guaranteed by means of a significant investment— not least additional funding – so as to equip UNIDROIT with the means for becoming such a centre of excellence. Bearing in mind that most other organisations involved in legal harmonisation or law reform also offer, to a lesser or greater extent, at least some of the “research and information facilities” to which Strategic Objective No. 2 refers, achieving this objective will further require political support from UNIDROIT member States to ensure, through co-ordination of their participation in those other organisations, that they effectively co-operate with UNIDROIT in making of the Institute’s currently limited research and information facilities the “leading source” among all of them.

37. In any event, the Secretariat remains convinced of the usefulness, in principle, for the international community, of such a “leading source of knowledge and capacity-building in the area of transnational private law”. The Secretariat believes that the avenues of achieving that objective have not been exhausted and a more focused, realistic examination of the matter might be worthwhile, provided that UNIDROIT member States would be willing to commit the resources and efforts needed to move forward.

38. *The Governing Council may wish to take note of the measures taken by the Secretariat to achieve this strategic objective and request the Secretariat to submit more concrete proposals for the realisation of this objective for consideration by the Council at its 89th session, in 2010.*

- *Strategic Objective No. 3: the gradual and systematic conversion of hitherto stationary know-how, skills, research and legislative capabilities into pro-actively employed outreach resources.*

39. The Strategic Plan emphasises “the universal standing both of the Library and the *Uniform Law Review* as well as the extra-ordinary success of the research scholarships programme” as well as the latter’s “beneficial spill-over effects both for the legislative work and for the efforts deployed to broaden the Organisation’s membership” (para. 10). The Strategic Plan further notes that, while the Organisation’s research resources used to be employed “primarily as a stationary support infrastructure at the disposal of the Secretariat and visiting researchers”, the *Uniform Law Review* and other publications sought to “disseminate knowledge and convey scholarly debate in the area of uniform law to the outside world” (para. 22). The Strategic Plan further noted that “the development of the UNILEX data base” as well as “the conscious and strategic use of a reinforced scholarships programme from 1993 onwards mark the conversion of – relatively – dormant back-office know-how into pro-actively managed outreach resources” (para. 22).

40. The internal review of the scholarships programme conducted by the Secretariat generally confirms those earlier findings. Although the spill-over effect of the scholarships programme for the purpose of deepening the links with national Governments may be limited (only ca. 10% of UNIDROIT scholars pursue a career as civil servants), the relatively large proportion of those scholars who end up in academia (ca. 40%) allows the Secretariat to hope that information on the Institute will be transmitted to students or in writings. It can therefore be said that the scholarships programme continues to contribute to the implementation of Strategic Objective No. 3.

41. The web page on “Legal Cooperation and Technical Assistance” now includes information on the UNIDROIT Scholarships Programme as well as on the technical assistance States may need in implementing UNIDROIT Conventions (e.g. explanatory reports, the texts of model instruments of ratification/accession, information as to formalities to be carried out at the time of ratification/accession).

42. *The Governing Council may wish to take note of the measures taken by the Secretariat to achieve this strategic objective and to consider the desirability of requesting the Secretariat to present more concrete proposals for consideration by the Council at its 89th session, in 2010.*

V. MEMBERSHIP AND GOVERNANCE

- *Strategic Objective No. 4:* designing communication, decision-making and resourcing processes capable of ensuring a comprehensive assessment of potential interests, costs and benefits of a State’s participation in any given project, on the one hand, and the predictable and sustained provision of adequate resources, on the other hand.

43. Strategic objective No. 4 was originally conceived as a possible response to the growing difficulties in ensuring proper co-ordination within member States in respect of projects carried out by UNIDROIT. It was then explained that:

“Only a very small minority of Governments seek to co-ordinate the implications of membership internally and succeed in speaking with one voice. The additional administrative burden engendered for the Secretariat by the prevailing lack of co-ordination is considerable, while the multitude of stakeholders, “claimants” and potential beneficiaries is not matched or balanced by an increase in available resources or, viewed from the member State’s perspective, by internal sharing of the financial obligations flowing from membership.” (Strategic Plan, para. 34)

44. This strategic objective intends, therefore, to address two aspects of relationships with member States: internal co-ordination and political and financial support for the activities of UNIDROIT.

45. As regards the first aspect, the Secretariat submits that it can do little more than use its good offices to encourage better communication and co-ordination between the Governing Council and the various instances of representation of member States within UNIDROIT, as well as between the domestic focal points, their diplomatic representatives in Rome and the organs of the Institute. Efforts have been made to identify the nature and form of information required by member States to process more efficiently matters related to UNIDROIT, both as regards the substance of projects handled by the Institute, as well as its financial and institutional administration. The preparation and submission of information on specific project costs, as well as documents showing a clearer link between the budget and the implementation of the Work Programme through more detailed information on allocation of resources than was provided in the past, which the Secretariat will start to produce systematically from 2009 onwards, is expected to facilitate an internal assessment by member States of “costs and benefits of a State’s participation in any given project, on the one hand, and the predictable and sustained provision of adequate resources, on the other hand”.

46. *The Governing Council may wish to take note of the measures taken by the Secretariat to achieve this strategic objective and to consider the desirability of requesting the Secretariat to present more concrete proposals for consideration by the Council at its 89th session, in 2010.*

- *Strategic Objective No. 5:* to create, within the framework of the Organisation's website, "The Governments' Forum", an electronic communication and discussion platform access to which is limited to UNIDROIT member States' Governments.

47. As far as the actions anticipated for the Secretariat were concerned, the Governments' forum was achieved by 2005 with the creation of the section of the website containing documents prepared for the General Assembly with access reserved to Governments of member States. Member States have shown little interest in using an open discussion platform, and this aspect of that objective has essentially been abandoned.

- *Strategic Objective No. 7:* a systematic and sustained effort to broaden the Organisation's representation in Africa, the Middle East and Asia, to fill gaps and re-vitalise dormant membership, and to guarantee a more regular presence and focused participation in other international fora.

48. In line with efforts made in the past and indications of interest received, the key target areas for broadening the Institute's membership have been, firstly, Southeast Asia and the Pacific and, secondly, the Middle East and selected African countries. As regards Latin America, efforts to re-vitalise dormant memberships have continued.

49. These efforts have also included the organisation of meetings outside the seat of the Institute as a means for engaging experts from non-member States, in particular from developing countries. The Secretariat is pleased to point out that the organisation of sessions of governmental experts during the preparation of the UNIDROIT Model Law on Leasing in Africa and the Middle East was instrumental in raising awareness for the work of UNIDROIT in countries of those regions, some of which are as a consequence considering acceding to the UNIDROIT Statute.

50. The Secretariat is pleased to point out that those efforts have not been in vain: both Indonesia and Saudi Arabia acceded to the Institute as from 1 January 2009. Contacts with other States have proceeded.

51. The Secretariat continues to visit or participate in meetings of the following governmental and non-governmental international Organisations: Hague Conference on Private International Law, International Chamber of Commerce, International Finance Corporation, International Trade Centre (WTO/UNCTAD), UNCITRAL, UNESCO, United Nations Committee on the Peaceful Uses of Outer Space. Of particular importance is the now well-established tri-partite co-operation with the other private-law formulating Organisations, i.e. the Hague Conference and UNCITRAL.

52. *The Governing Council may wish to take note of the measures taken by the Secretariat to achieve this strategic objective and to consider the desirability of requesting the Secretariat to present more concrete proposals for consideration by the Council at its 89th session, in 2010.*

VI. ADMINISTRATION, SUPPORT SERVICES AND OFFICE SPACE MANAGEMENT

- *Strategic Objective No. 8:* to establish up-to-date and unified procedures of electronic document management and record-keeping.

53. The Strategic Plan states that "there has been a tendency towards de-centralisation of document management and record-keeping. Furthermore, a significant proportion of records kept is still paper-based" (para. 58). The Strategic Plan goes on to affirm that "[s]ubject to the availability of resources and to the extent necessary, efforts will have to be made to reverse these

trends” (para. 59) and defines Strategic Objective No. 8 as follows: “to establish up-to-date and unified procedures of electronic document management and record-keeping.”

54. As a result of the review started in October 2008, a plan has been drawn up for the gradual upgrade of electronic *document management, keeping of records and archives* and other *administrative procedures*. The structure of the UNIDROIT archives, its document retention and accessibility policy have been reviewed. The Secretariat has designed and started to implement an electronic correspondence and documents registration, tracking and archiving system, integrating both paper-based and electronic communications. The creation of a common electronic address database will ease retrieval and use of the information in other office applications, expedite communications and increase efficiency, while the introduction of electronic calendars and a documents forecast system will improve planning of meetings and documents processing.

55. *The Governing Council may wish to take note of the measures taken by the Secretariat to achieve this strategic objective and to consider whether the strategic objective might be regarded as having been substantially achieved, or whether more information should be submitted for consideration by the Council at its 89th session, in 2010.*

- *Strategic Objective No. 9:* the gradual but constant up-grading and completion of equipment, in particular of the information and communication equipment, at the disposal of the Secretariat with a view to enhancing the effectiveness and cost efficiency of its activities.

56. Notwithstanding the fact that available resources are limited, the IT-infrastructure has been up-graded and implementation of the project-related Work Programme is underway. Strategic Objective No. 9 appears to have been substantially achieved. Indeed, all staff members’ computers are connected in a local area network (LAN) and a certain degree of integration has been reached. UNIDROIT documents not for public consultation (documents prepared for the Governing Council and for the General Assembly) are available on those parts of the Institute’s website reserved for members of the Governing Council and Governments of UNIDROIT member States and are also available on a computer in the Secretariat that can be accessed from all other staff members’ computers.

57. Nevertheless, given the high speed of technological development in telecommunications, the short lifecycle of computer software and the quick obsolescence of hardware, this strategic objective must be seen as having a continuous nature.

58. *The Governing Council may wish to take note of the measures taken by the Secretariat to achieve this strategic objective and to consider whether the strategic objective might be regarded as having been substantially achieved, or whether more information should be submitted for consideration by the Council at its 89th session, in 2010.*

- *Strategic Objective No. 10:* to achieve autonomy with respect to the provision and maintenance of information technology by retaining in-house IT-expertise.

59. This objective was premised on the assumption that commercial IT service providers “are expensive and tend to be insufficiently responsive” and, as a consequence, “retaining in-house IT expertise” was an objective (*Strategic Plan*, para. 63). Experience has since shown, however, that, commercially provided internet services are not necessarily less convenient than an in-house service. If the commercial provider is carefully chosen and a valid contractual relationship established, commercially provided internet services may be decidedly less expensive from all points of view, considering that activating internet services in-house would require the full time

presence of a specialist (monthly salary no less than 2-3 thousand Euros), the need for a specially appointed air-conditioned room in which to house the new equipment that would be necessary (server, etc.), a UPS (uninterruptible power supply) or battery back-up and a constant power supply 24 hours a day (at present the connection to the public electric network is shut down for security reasons at night and from Saturday to Monday). Moreover, there have been no system failures in the last five years and the Institute's current internet services provider, Team Centric Systems (TCS) in Germany, responds satisfactorily to queries or problems concerning the Institute's web-based projects, including its e-mail services. Of course, only a comparative cost-benefit analysis can provide an answer as to the economic feasibility of an in-house provider rather than a commercial provider. Today, the trend is for small institutes, such as UNIDROIT, to have recourse to the services of commercial providers. In the light of the above, whether understood as referring to the advisability of UNIDROIT functioning as its own provider of internet services or, more simply, of hiring a systems expert, Strategic Objective No. 10 does not seem to be as critical today as it did in 2003.

60. As regards IT services other than hosting, the availability of satisfactory in-house expertise is limited by the budgetary constraints placed on the Secretariat. The Secretariat has however undertaken to review the entire IT architecture to identify more clearly the respective scope for outsourcing and in-house servicing.

61. *The Governing Council may wish to take note of the measures taken by the Secretariat in connection with this strategic objective and consider that those measures sufficed for attaining the goal envisaged by the strategic objective, but that, at least as regards the possible in-house hosting of internet services, the underlying assumptions of the strategic objective are no longer relevant.*

- *Strategic Objective No. 12: the development of communication techniques that will facilitate the constant flow of all relevant information as well as reliable and prompt response.*

62. This strategic objective is closely related to Strategic Objectives Nos. 8 and 9, and most of the conclusions drawn in respect of those objectives would also apply in connection with Strategic Objective No. 12.

63. *The Governing Council may wish to take note of the measures taken by the Secretariat to achieve this strategic objective and to consider whether the strategic objective might be regarded as having been substantially achieved, or whether more information should be submitted for consideration by the Council at its 89th session, in 2010.*

VII. CONCLUSION

64. Half-way to the 2016 dead-line set by the original Strategic Plan, the Secretariat has attempted to assess the progress made in achieving the strategic objectives identified in 2003.

65. *The Governing Council may wish to take note of the measures taken by the Secretariat to achieve those strategic objectives and to consider the extent to which some of them may be regarded as having been substantially achieved, whilst others may deserve closer attention. The Governing Council may wish to consider the desirability of requesting the Secretariat to submit more information for consideration by the Council at its 89th session, in 2010, with a view to assisting the Organisation in achieving ever greater efficiency and in answering the demands placed upon it by its member States.*