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

(memorandum prepared by the Secretariat)

<i>Summary</i>	<i>Information on • the Research Scholarships Programme • Action in support of legislative work • Co-operation with OHADA in drafting a Uniform Act on contracts</i>
<i>Mandate</i>	<i>Work Programme 2006 – 2008</i>
<i>Action to be taken</i>	<i>To take note of the information supplied by the Secretariat; to support the action taken by the Secretariat to secure funding</i>
<i>Priority</i>	<i>High</i>
<i>Status</i>	<i>Ongoing</i>
<i>Related documents</i>	<i>Annual Report 2008 (C.D. (88) 2); Implementation of the Strategic Plan: C.D. (87) 15, p. 9 ; Study LXV – Scholarships Impl. 20</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 form a major focus of its legislative work.<sup>1</sup> However, specific action is needed to boost the impact of that work – and this is especially true for a small organisation whose achievements are as 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.

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<sup>1</sup> 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, the legislative setting for emerging financial markets).

2. The Legal Co-operation Programme<sup>2</sup> 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
- 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 OHADA Uniform Act on contract law.

Details of these various activities are set out below.

### I. – THE RESEARCH SCHOLARSHIPS PROGRAMME 1993-2009

3. For the annual implementation report for 2008, see Study LXV – Scholarships: Impl. 20. As to the general description of the Programme, following is a brief outline of its achievements and resources.

#### (a) Achievements

- **185 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-flight researchers generally derive maximum benefit from the documentary resources of the UNIDROIT Library;
- the scholars' **countries of origin also benefit** where the modernisation of law, the implementation of uniform law instruments, training and information (through articles, advice to Governments, updating of university curriculae, etc.) are concerned;
- a **definite spin-off effect for UNIDROIT** is that former scholars constitute a network of experts in more than 50 countries who help to reinforce member States' involvement in the life of the Institute and to forge academic or institutional links with non member States and with other international organisations. All these elements play a key role in promoting and propagating UNIDROIT's work.<sup>3</sup>

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<sup>2</sup> 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). As to the Research Scholarships Programme, *cf.* also the detailed document prepared for the 83<sup>rd</sup> session (2004) of the Governing Council (*cf.* C.D. (83) 14).

<sup>3</sup> Some former UNIDROIT scholars now occupy key posts in their respective Governments and have become spokesmen for UNIDROIT within their respective departments. Several have been appointed UNIDROIT correspondents, and one has become a correspondent of the *Uniform Law Review*; many have participated (also as representatives of their Governments) in meetings and seminars organised by UNIDROIT; the accession of new member States is frequently facilitated through the efforts of former UNIDROIT scholars; institutional links have been established with other international organisations; there are countless examples of former UNIDROIT scholars translating UNIDROIT instruments and helping to promote them in their countries of origin, which in some cases has led to their ratification there.

**(b) Resources**

4. The Programme's resources are unfortunately extremely modest, and there is evidence of a considerable drop compared to 2006 and 2007.

- **Allocation of Chapter 11 of the Budget:** following the decision of the General Assembly at its 60<sup>th</sup> session on 1 December 2006 to reduce the € 15,000 allocation made in 2006 to € 10,000 in 2007, a figure that has been retained as of 2008, this allocation now represents 0.54% of member States' contributions other than those of Italy, well below the 1% target set when this budget item was first created (and which, if applied, would have meant a total allocation of € 18,441 in 2008). Although the budget allocation covers the Legal Co-operation Programme in general, most of the funds go towards funding the research scholarships.
- **Voluntary contributions by external donors:** the Secretariat particularly regrets the withdrawal of one of the Programme's long-standing donors (for internal procedural reasons). On the other hand, it is pleased to note the renewal of the sponsorship of the *UK Foundation for International Uniform Law* (2 three-month scholarships and a sizable sum for the acquisition of bibliographical material dealing with the subjects of the research funded) and expresses its satisfaction at the support of the members of the UNIDROIT Governing Council (1 scholarship) and the Secretary-General of UNIDROIT (1 scholarship).

5. The Secretariat is actively seeking other sources of funding for the Programme. As a rule, it encourages applicants to identify their own sources of funding, and makes sure that optimum use is made of the resources available to it. In this regard, it expresses its satisfaction at the co-operation established with the *Universidad argentina de la empresa* (Buenos Aires) which involves the granting of joint scholarships. Finally, the Secretariat takes this opportunity to emphasise the importance, in this context, of maintaining adequate documentary resources in the Library, one of the main pillars upon which the Research Programme rests.

**II. – TECHNICAL ASSISTANCE IN SUPPORT OF THE IMPLEMENTATION OF UNIDROIT INSTRUMENTS**

6. This activity is intended to 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. In this context, the Secretariat pays particular attention to the necessary synergies between the various activities of the Institute and the development of efficient co-operation with Governments and other international organisations in order to rationalise the use of resources and improve the quality of its work.

7. As to the past year, suffice it to list the activities set out in the documents relating to the legislative subjects on the Work Programme: information and assistance provided as part of the Institute's depositary functions for the Cape Town Convention and its Protocols; promotional initiatives involving the participation of members of the Secretariat in meetings and conferences or visits (*cf.* in particular the documents on the UNIDROIT Principles of International Commercial Contracts and on the promotion of UNIDROIT instruments). Seminars, organised in various countries, which focus on the work of the Institute offer an excellent opportunity for the Organisation's training and promotion work. In this regard, it is worth recalling the seminar to be organised in Abuja from 7 to 9 May 2009, at the invitation of the Nigerian Securities and Exchange Commission, and focusing on the UNIDROIT capital markets projects.

8. Also worth mentioning is the dissemination effect of the translation into languages other than the UNIDROIT working languages of instruments prepared by the Institute. These language versions, in most cases, have no financial implications for the Institute and are as a rule prepared by or through the good offices of correspondents or invited researchers, and are published on the UNIDROIT Internet web site.

### **III. – CO-OPERATION WITH OHADA FOR THE PREPARATION OF A UNIFORM ACT ON CONTRACT LAW**

9. It should be recalled that the draft OHADA Uniform Act on contract law prepared by UNIDROIT, drawing on the *UNIDROIT Principles of International Commercial Contracts*, at the request of the OHADA Council of Ministers (and drafted, together with an Explanatory Note, by Professor Marcel Fontaine, with the financial support of the Swiss Government) was first submitted for scrutiny by the National Committees of the OHADA member States in February 2005. With a view to stimulating the consultation process, UNIDROIT organised a Colloquium in Ouagadougou (Burkina Faso) in November 2007 on “The Harmonisation of Contract Law within OHADA”, in co-operation with the University of Ouagadougou and OHADA.

10. The Ouagadougou Colloquium was hailed as a high-profile scholarly event as well as for its significant contribution to scholarship in the field of the modernisation of contract law in the OHADA countries and beyond. The Acts of the Colloquium were published in the 2008-1/2 issue of the *Uniform Law Review / Revue de droit uniforme*, an issue which was widely distributed by the Secretariat, especially in the OHADA member States, and through free access on the Institute’s Internet website. It has also been relayed by OHADA’s own main information/legal doctrine site, [www.ohada.com](http://www.ohada.com). Such broad dissemination further underpins the legislative work undertaken by UNIDROIT on behalf of OHADA, in a part of the world where access to scholarly and scientific sources is still poor and where UNIDROIT has so far had little involvement.