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INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW

ORGANISATION OF A UNIDROIT INFORMATION SYSTEM OR DATA BASE ON UNIFORM LAW

Meeting of International Organisations

Rome, 2 February 1996

(Secretariat memorandum)

Rome, April 1996

A ***Meeting of International Organisations on the Proposal for the Creation of a Data Base on Uniform Law*** was held on 2 February 1996 at the seat of Unidroit. On the Agenda was an examination of the Prospectus illustrating the proposed Unidroit Data Base on Uniform Law[1] and a consideration of the possibilities of co-operation between interested international organisations and Unidroit in relation to the proposed data base. A list of participants in the meeting is appended to this report as Annex III. **Mr Alan Rose**, President of the Australian Law Reform Commission and Member of the Unidroit Governing Council, took the Chair.

Opening the meeting, the **President of Unidroit, Mr Luigi Ferrari Bravo**,[2] stated that although a considerable number of legal data bases existed, there were relatively few that dealt in any systematic way with international law in general or with uniform private law in particular. The problem was not so much that information on uniform law was not available at all, but that in most cases it was not available in a structured form and that the effort required to retrieve the information was such as to make the costs, in time and money, almost prohibitive. The Unidroit initiative had been born out of a growing awareness of the difficulty the organisation faced in the retrieval of the information it needed for its work. Unidroit was clearly not an isolated case. Other international organisations faced similar problems.

The actual preparation and adoption of uniform law instruments was only the first step in the unification or harmonisation of law. The test of the success of uniform instruments came with their application - by judges and arbitrators, practising lawyers and legislators. All these categories of professionals required information when they were called upon to deal with uniform law. In order to ascertain the interest of a number of categories of potential users the Unidroit Secretariat had conducted four surveys at the end of 1994. The categories of potential users contacted had been members of the International Bar Association, chambers of commerce and industry, arbitral tribunals and international organisations. The information elicited in the surveys had confirmed the general desirability of an instrument such as the proposed data base.

In addition to the surveys, contacts with a number of States suggested that the proposed data base would be of considerable interest also to Governments, particularly the Governments of the emerging nations of Central and Eastern Europe.

One of the complaints levied most often against the most common systems of research was the fact they were time-consuming. This was due at least in part to the fact that at present there was no single point of reference to which those seeking information on uniform law could turn, for the simple reason that uniform law instruments had been prepared by and adopted under the aegis of a number of different organisations, each of which took care of the information which related to its own instruments. The setting up of an information system, with a central data base as the fulcrum and computer links with other major data bases, was an effective answer to these problems.

The time needed for consultation also depended on the efficiency of the classification system used by the data base consulted. UNILAW, the proposed Unidroit data base, was intended to be an "intelligent" data base, with the information retrievable by legal concept in addition to being accessible through more simple and obvious classifications such as the date of the decision or the name of the relevant court.

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[1] See Study LXIX - Doc. 4.

[2] For the complete text of the introductory address of Mr Ferrari Bravo, see Annex I.

The intention was that in time, UNILAW would cover uniform law as a whole, with arbitration, cultural property, international sales and related commercial transactions and transport being the proposed initial priorities.

At its 73rd session in March 1995 the Governing Council of the Institute had been seized of the results of the surveys conducted by the Secretariat. The evidence collected by these surveys, as well as a mature reflection of Council members on the Institute and its role in a changing world, had led the Council to accept that there was:

- considerable potential demand from States and their legal advisers, other international organisations, legal practitioners and academics for expeditious and efficient access to a high-quality source of uniform law;
- this demand could not be satisfactorily met from the Unidroit Library and other available hard copy and electronic sources;
- the Institute could usefully fulfil its statutory purposes through the provision of information regarding uniform law. It was a service to the international community that of all international organisations Unidroit was in the best position to render, and
- state of the art electronic information technology was now available or becoming available which would allow the Institute to continue better to discharge its uniform law co-ordination and information roles to the international community into the twenty-first century.

In accepting this new approach, the Governing Council of Unidroit had stressed that for the purposes of the proposed data base "uniform law" should be understood in a broad sense, as including not only what was known as substantive law but also conflicts or private international law. It had seemed natural and logical to the Governing Council for Unidroit to proceed with such a project and to enlist the aid of other relevant organisations that were interested in co-operating on the data base within their specific fields of competence. The present meeting had been convened to discuss the possibilities of such a co-operation.

The President stressed that Unidroit had always made it a policy to co-operate with other international organisations to the greatest extent possible, both universally and regionally. It was the intention of the Institute to intensify this co-operation in the future.

The UNILAW project was an instance where such a co-operation would be of benefit to all. The precise modalities of the co-operation could be worked out between Unidroit and the organisations concerned. Basically, what was envisaged was that in exchange for regular up-dating on the status of ratifications and reservations on the part of the other international organisations, done directly via computer-link, and in return for such expert advice as the organisations would be in a position to offer, Unidroit would provide the organisations with free access to the data base as a whole. Considering that experts would be in charge of the different subject-areas, this would in effect provide the international organisations with material they would otherwise be able to obtain only with difficulty, for example national case law on their conventions. Each section of UNILAW devoted to a particular subject-area would in effect be a co-operative venture between Unidroit, the relevant panel of experts and the organisations responsible for the international instruments concerned. This co-operation would be clearly acknowledged in UNILAW.

Concluding his opening address, the President stressed that all too often in the past relations between international organisations had been strained or even tarnished by open competition. It was time to turn the tide. In the world of the end of the twentieth century there was no room for rivalry between international organisations. They had all been created to work for the welfare of the international community, each and every one of them had the promotion of peaceful relations between the nations, and between the citizens of the nations of the world, as the ultimate term of reference for their activities. It was up to them to do all they could to ensure that this objective was achieved. It was up to them to pool their resources and to work together, united in their endeavours for the benefit of mankind and the world they lived in.

Mr Rose recalled that in inviting the organisations to the meeting the Secretariat was looking to complete a proposal to put to the Governing Council of Unidroit in June 1996, to obtain some idea of the interest of the international organisations and of their desire to co-operate in producing the UNILAW data base. It was clear that as the project developed, there would need to be much closer contact between each of the organisations and the Institute. What Unidroit very much had in mind in seeking the co-operation of the organisations was that there were great advantages both for the Institute and for each of the organisations, and more particularly for the wider group of users, whether they were professionals, government advisers, trade organisations or academics, in there being one electronic address from which all of those users could get authoritative and expert information on each of the areas of uniform law. From the perspective of Unidroit there was great mutual advantage in the establishing of that one uniform address. It was the belief of Unidroit that such a single access point would do much to promote knowledge and understanding of each of the particular areas of uniform law, many of which the organisations present were responsible for. It also seemed to Unidroit that this initiative would address one of the fundamentals of the financial difficulties of the international organisations, namely the fact that all the organisations, and all of the member governments of the organisations, had great difficulty in ensuring that the budgets of the organisations were kept abreast of the demands made on them. From a national government's perspective, as well as from the perspective of the international organisations, it was very important that they constantly consider new initiatives that would turn as great a product as possible from the available financial resources. He thought it incumbent upon the international organisations, where they could increase that productivity, to make every endeavour to do so. From the perspective of Unidroit, UNILAW was one of those initiatives which had the potential to produce great productivity gains. That is, it would, by having one interactive data base accessible to all of the organisations and to all of the member States of the organisations as well as to other users, provide great additional value to what each of the organisations provided from their information sources and publication programmes. Unidroit believed that it would be an excellent opportunity not only to gain productivity, but also to promote the publications programmes of each of the organisations that contributed to the data base. He suggested that the development of this one, central electronic address would also provide great support for other plans which each of the organisations might have, not only in publication, but in developing their consultancy services and in the promotion of each of the individual bodies, in other words in the achieving of their wider organisational objectives.

Mr Rose informed the meeting that to assist it in building this proposal Unidroit had engaged a consultancy group, **Ingenium Software Limited**, a number of whose members were present: **Mr Jon Roth**, Director, **Mr Bill Aenlle**, Technical Systems Consultant and **Mr David Reynolds**, Project Manager. The Ingenium Software Limited was a Contract Research Organisation based in the United States which operated out of the United Kingdom for Europe and was shortly to open a branch office in Rome. It provided services that encompassed all phases from initial feasibility studies through implementation of hardware and software solutions. The Ingenium Software Ltd. was an independent consulting firm which did not represent any particular hardware or software vendor. The main areas of its

activity included systems analysis, systems development, software development, data management, document imaging consultations and statistical analysis. Organisations with which Ingenium were working included the Food and Agriculture Organisation of the UN (FAO) and the International Atomic Energy Agency (IAEA). The consultation by Ingenium Software Ltd. took the form of an analysis of the concept of UNILAW with a recommendation of the approach to be adopted, a functional analysis of the user requirements, a system specification and a budget for the implementation of the system.

Mr David Reynolds made a presentation of the results of the concept analysis of UNILAW, in the course of which he illustrated the objectives of UNILAW, what it offered, who would use the data base and what the benefits would be to users and contributors to UNILAW. He also illustrated the development strategy and examined a series of issues of interest to both users and contributors, such as the type of equipment that would be necessary, how UNILAW would be reached by electronic communications and the different forms in which the information on the data base would be made available (on-line, CD-ROM, hard copy). A summary of the presentation is set out in Annex II to this report.

Following the presentation made by Mr Reynolds, **Mr Rose** recalled that in both the introductory address of the President of Unidroit and in the presentation made by Mr Reynolds references had been made to the particular form and structuring of the data base that Unidroit was seeking to develop within UNILAW, most particularly to the users' ability to access information according to legal concept and to feel comfortable that the information that was being presented was relevant to their profession, independently of their specialisation. Quite clearly Unidroit was at the beginning of the UNILAW project and it was too early to provide participants with a simulation or proto-type of the way information would be held within the UNILAW Data Base. Through the UNILEX data base participants could however obtain a very clear idea of the style of format, entry and access, that Unidroit had in mind. Mr Rose thereupon introduced **Mr Michael Joachim Bonell**, Professor of Comparative Law at the University of Rome I, Legal Consultant to Unidroit and Director of the **Centre for Comparative and Foreign Law Studies**, a research centre set up jointly by Unidroit, the University of Rome and the Italian National Council for Research, who would demonstrated the functioning of the UNILEX Data Base.

Introducing UNILEX **Mr Bonell** stated that UNILEX could be seen as an example of how UNILAW could be structured and conceived in the area of international sales law, which was one of the priority areas indicated by the President of Unidroit in his opening address. UNILEX related specifically to international sales law and was intended to offer an exhaustive and comprehensive overview of international case law and bibliography relating to the *United Nations Convention on Contracts for the International Sale of Goods (CISG)*. UNILEX was available on diskettes and in hard copy. It would soon be available also on CD-ROM.

Illustrating UNILEX Professor Bonell took the participants through all the functions of each of the sub-menus on the main menu, namely "Convention", "Articles", "Subjects", "Cases", "Bibliography" and "Print".

The "Convention" sub-menu was divided into "General Info" which provided information on the total number of cases and bibliographical references included in the data base, together with the number of articles of the Convention and the total number of "issues" listed under the articles; "Text of Convention" which offered the full text of the Convention; and "Status" which provided information on the states parties to the convention with the date of signature, ratification and any reservations or declarations.

The "Articles" menu allowed an article-by-article search. The main option in this menu offered access to all cases which related to the article in question, access being offered country-by country, by

date or by issue. Other options included bibliographical references and cross references, which provided instant access to related articles and issues.

The "Subjects" menu offered a search either subject by subject or by a selection of a specific term. Links were provided with the bibliographical references and with the case law.

The "Cases" menu was a direct search mode for specific cases. Access was either by date or by country. A full text of the case in the original language, an abstract in English, an indication of the sources of publication of the original text as well as relevant comments were available. A direct linkage with the text of the relevant article was also provided.

The "Bibliography" menu permitted access to the references by author, by article of the Convention and by area, i.e. by the topics dealt with by the article or book in question.

Opening the discussions **Mr Rose** suggested that it would be very useful if, either through questions or comments or statements of their own intentions, participants could give Unidroit an idea of the value they might see in joining with Unidroit, or if they would make any comments as users or contributors to the UNILAW system.

Mr Nicora (International Trade Centre UNCTAD/GATT) felt that the UNILAW system was a modern system which would be able to furnish a lot of information that at present was not available. All the organisations had data bases, the ITC had one which worked quite well, but it did not contain the kind of information that it was envisaged UNILAW should contain. He felt it to be a very good initiative on the part of Unidroit. As regarded the way in which the information was to be inserted into the data base, he felt that the plans were very ambitious and that a whole army of researchers would be necessary to take each article of this or that other text and at the same time to search for the cases relating to those articles. He suggested that it might be necessary to proceed with a test-case. He also wondered who the addressees of the data base were, how and by what means they would contact the data base. Would they know the key-words used? If this were the case, it would be necessary to provide a glossary of key-words and instructions for the use of the data base, all of which would take time. As to the up-dating of the data base, if the up-dating was to be made on CD-ROM it would cost a fortune and he was not sure that people would buy a second CD-ROM so soon after having bought the first. The expenses had therefore to be limited if it were to be made accessible. If this up-dating was made on the data base it would have to be done periodically. On the basis of the ITC experience he suggested foreseeing from the start that the data base be made accessible thought Internet. This would have the advantage of covering most countries of the Americas and Asia. He also suggested that if organisations, the WTO in particular, produced an international instrument promoting the general principles of law, it would be interesting to consider making it available through this data base which would be respected for its neutrality. Finally, he suggested making a News Bulletin available via e-mail, which would permit each of the organisations to know what would be placed on the data base.

Mr Rose stated that Unidroit would be looking at each particular area of law with its own panel of experts and while the material would be on the UNILAW data base, access to it would be primarily via an on-line system, through the Internet or CompuServe. Whether or not an individual user wanted a CD-ROM would be very much a matter for that user's choice. The strategy Unidroit was proposing to adopt was to take a limited number of subject areas and a limited number of conventions at the outset. Quite clearly the operating instructions for UNILAW would be well publicised so that any user could very quickly learn how to use the data base. If there were particular organisations that were interested in co-operating at the outset, then those areas would be given some form of priority in terms of establishing

them first in the data base. The task of up-dating the data base, of preparing the material to be inserted in it, would be the prime responsibility of the panel of experts that would be established to work with Unidroit on each area. Unidroit would be very happy and keen to have the organisations that participated as contributors join with Unidroit in developing and appointing the panels of experts so that it was certain that people with particular expertise in the field concerned were working on the data base.

Mr Buquicchio (Council of Europe) observed that the UNILEX initiative was one of the most fascinating and complete that he had seen in the field. He wondered by what procedure the staff of the UNILEX data base managed to collect the case law and bibliography that would be inserted in the data base. The UNILAW project was certainly ambitious, but it was one which the Council of Europe was fully prepared to support and encourage within the limits of its terms of reference and possibilities. As concerned the areas which UNILAW would cover, of the 160 conventions of the Council of Europe at least twenty were candidates for inclusion in the data base. The Council of Europe also had about 1000 recommendations, some of which laid down directive principles which could be interesting for the data base. All this material, particularly the texts of the conventions, was stored electronically, but unfortunately it was not accessible from outside the organisation, although he was convinced that methods could be developed for the communication of data which might be interesting to Unidroit and UNILAW. If this project was as favourably received by the other international organisations as it deserved, and if Unidroit decided to proceed, then it would be necessary to reflect on the procedure which should be followed. Better communications would have to be put in place with the Unidroit Secretariat, so as to permit the Unidroit Secretariat to acquire information on what the organisations had and on what they could let the Secretariat have and in what form, considering also the economic restraints imposed on international organisations as a result of the zero growth policy of the member States. On the basis of this information it would then be up to Unidroit to indicate what it required. With the limited means at its disposal the Council of Europe was prepared to support the initiative.

Replying to Mr Buquicchio's question, **Mr Bonell** indicated that the collection of the bibliography by studying catalogues and legal journals did not present great difficulties, it was just a question of having sufficiently skilled people at your disposal, even if the language problem played a significant role. The cases were instead more problematic. At the most 10% of the 150 cases in UNILEX had been received directly from the court. The remainder had been retrieved on legal journals and in law reports. Once the case had been found, an evaluation of its relevance had to be made.

Mr Rose indicated that in conceptual terms what Unidroit had in mind was that the chairperson of each panel of experts should build the secretariat support necessary for that panel. The teams would in other words be doing what Mr Bonell's team had done with respect to CISG. Here again Unidroit would be looking to individual organisations that would be willing to participate with Unidroit in the identification of the experts and to assist in the task of retrieving the relevant material, both cases and academic writing, but in many cases also the implementing national legislation, which was of great interest to those that were concerned with the impact of uniform law in a broader sense, in handling cross-border and other circumstances. The project was ambitious, but Unidroit believed that the methodology that was being adopted with CISG could be replicated across the whole area of uniform law. It would necessarily have to be done progressively, it would not be something that could be done at the same time for all the areas of law that would be covered over time.

Mr Mutz (Organisation internationale pour les transports internationaux ferroviaires (OTIF)) observed that the UNILEX project had demonstrated the enormous analytical and classification work that had to be done for the system to work as desired. The research methods used in the UNILEX system were applicable only if there had been this preliminary analysis. If his organisation had to

contribute, and he had seen in the document that transport law was one of the priority areas, he wondered whether its capacity in personnel and means were sufficient for this analysis. The linguistic problem had furthermore to be taken into consideration in this context. Also to be considered was how far back one had to go in analysing the old cases. He thought it necessary to reflect very seriously on a concept which would require less effort in preliminary analysis as it was necessary to have a realistic proportion between this preliminary analysis and the utilisation of the data base once costs had been accounted for. He asked Mr Bonell how much time his team spent on the analysis of the cases for the data base.

Mr Bonell indicated that the time often depended on whom one could count at any given moment, but on average ten hours were necessary for every case.

Mr Zunarelli (Comité maritime international (CMI)) stated that his organisation was extremely interested in the UNILAW project which it found would be very useful for end users, such as the members of the CMI. In order to make the project viable it was necessary to consider that simplicity of the research must be one of the main goals of UNILAW. He had been impressed by Mr Bonell's statement that it took ten hours to prepare a decision for entry into the data base. This was too long, and would mean that a very small number of decisions could be entered into the data base if a very large number of researchers was not available and it would be very difficult to have such a large number of people working for this project. He therefore suggested concentrating on the simplest way to make a court decision acceptable for insertion into the data base. This would not be too difficult, as the main effort of the researchers would be to prepare the summary of the decision in English and then to identify the key-words. As to the problem of the translation, if there was financial support, then the involvement of the expert would be limited to checking the correctness of the translation which could be made by a professional translator. He saw some other problems as regarded the bibliography, as it was perhaps even more difficult to extrapolate from an article, or from a general commentary or a handbook, where to place the article and how many times to refer to the handbook. It was therefore possible to consider limiting the effort at a preliminary stage to a cases data base.

Mr Adib (International Maritime Organization (IMO)) stated that the initiative under consideration was indeed one worth discussing and that the fact that Unidroit had taken this initiative said a lot about the dynamic co-ordinating role it was assuming and the enthusiasm and high efficiency of its management. He had noticed that transport was one of the subjects to be placed in the forefront. Transport was a very broad subject, there were many different types of transportation starting with maritime transportation. He suggested that more specific indications might be required, because from what he had seen in the presentations some sectors of transportation were very relevant to the envisaged data base. Other sectors of transportation might not be all that relevant, for example, the safety of ship building. He therefore requested some clarifications on this point. Secondly, from the presentation it seemed to be intended to be an on-line, mainframe computerised data base, but there had been references to using CD-ROM and the indications given had not been clear, so he wondered whether this was what was really intended, or whether that was a project left for a later stage. In the IMO the same dilemma had been faced some four or five years earlier, when they had asked themselves how they could go about setting up a data base and providing information to many users. They had studied the market in a thorough and systematic manner, they had questioned the potential users and they had studied very carefully the various envisaged trends for new technology. At the end they had come to the conclusion that their best choice was to provide the information directly on CD-ROM. This choice had proved to be the correct choice. The CD-ROM were successful and the IMO had feed-back from the users whom they surveyed once a year. They were absolutely sure that there was no room at all for on-line access for their project.

Mr Evans, Secretary-General of Unidroit, agreed that transport was a very broad area. Unidroit had not gone into detail in defining any areas in the prospectus describing the proposed data base, but what was in mind was the classical transport conventions which might have come out of the IMO, UNCTAD or the CMI: carriage of goods, carriage of passengers, the liability conventions, oil pollution conventions, arrest and possibly collisions. In other words, the typical conventions where case law was to be found. Those looked at would be those of major commercial importance, therefore essentially carriage, but also a number of others, such as the Salvage Convention and the Arrest Convention, but Unidroit certainly did not have in mind the highly technical conventions such as SOLAS or MARPOL. Of the IMO conventions between eight and ten would be the sort of conventions that could be integrated in one way or another into the type of project contemplated. The same could apply to air law: the Warsaw Convention and all that family of conventions, but probably not the sky-jacking conventions. The analysis problem was another aspect which had to be considered. Mr Bonell had had a great advantage, and in some respects a disadvantage, in the preparation of the UNILEX data base, as he had dealt with a convention of 101 substantive articles, which was considerably longer than the average private law convention, but on the other hand he had started off from scratch. If one were to take instead the Warsaw Convention, how far back would one want to go? How far back would it be possible to go?

Mr Roth (Ingenium Software Ltd.) indicated that CD-ROM was one of the key methods of distribution that had to be considered very seriously. The consultation was however very much at the early stages and one of the key purposes of this meeting was for the consultants to gather more information and a better understanding of some of the experiences that had already taken place in this area. Over the next few weeks they would be doing a detailed requirements analysis and coming up with a systems specification that would specifically address these issues. CD-ROM was typically a means of distribution of information, it was not a method that the system itself existed on. Usually, behind the CD-ROM there was a data base, whether that was on a mainframe or on a personal computer or on mini-computers. One of the key features of the UNILAW data base was that it was a two-way inter-action: there were people that were contributing and taking from the data base at the same time. Another means of distribution that was equally viable and which would be considered seriously, would be Internet. The data base might be distributed in both forms.

Mr Rose indicated that UNILAW was envisaged as a data base project at two levels. The interaction among all the international organisations with that data base, the giving and receiving, was important, as was having a high quality maintainer of the data base. It gave the opportunity for mutual contribution to and use of that on-going data base, with the ability to tailor distribution to particular users' requirements. It was in this latter area that Unidroit would be very keen to know what the experience of the other organisations had been. The second line of enquiry was also if organisations could indicate the degree to which they would be able to contribute to, and participate in, UNILAW, with whatever qualifications they might have.

Mr Bonucci (Organization for Economic Co-operation and Development (OECD)) suggested that two subjects-matters could be of particular interest for his organisation. The first was taxation, which fitted well in the type of work envisaged. Secondly, competition law, even if he was not certain that that really came under this type of data base. The OECD had adopted few international conventions, but he thought that it would be a pity not to take into consideration also the decisions and the recommendations adopted by the international organisations. For example, the *OECD Model Taxation Convention* which removed double taxation was not compulsory but bilateral agreements followed it anyway, whether or not the countries concerned were OECD member States. There were also decisions adopted by the OECD that were compulsory for the member States but which strictly speaking were not

to be derived from the international conventions. These decision were adopted by the Council, which was the supreme organ of the OECD. If one were to limit the data base to international conventions, one would lose part of the normative, or quasi-normative production of the organisations which could be useful. He pointed out that the OECD had some instruments which were at least semi-confidential. He therefore wondered whether it would not be possible to envisage two or three different categories of access to the data base, depending on the user: users who would have access to all the information on the data base and users with access only to a part of the information on the data base. This would be important for the OECD in considering the type of information it would be able to put into the data base.

Mr Rose indicated that the possibility of having categories of users with privileged access or particular encrypted access had not yet been considered. These were however points on which no decision could be taken immediately, as they had to be given some thought.

Mr Evans pointed out that competition law was already indicated in the list of subjects. The list was an open-ended list, in which the indication was that the data base could include, but not necessarily be limited to, these subjects. There would certainly be priority areas among those subjects, some of which had already been identified. As regarded taxation law, from the point of view of Unidroit, it was not looking for a full international trade law data base, although many aspects of trade law would be covered. Public law was not what had been envisaged for UNILAW. As regarded the instruments to be included in the data base, the intention was not to restrict it to conventions. If arbitration were to be dealt with in a meaningful manner the *UNICTRAL Model Law on Arbitration* could not be left out, although that created problems because it was incorporated in different ways in different countries but there was nevertheless a core of uniformity. The *Unidroit Principles of International Commercial Contracts*, which was not a binding instrument, was one the practical application of which would not be neglected. Model laws and recommendations were therefore not excluded *a priori*, quite the contrary. As regarded the issue of confidentiality, he was aware of the difficulty and of the sensitivity of arbitration tribunals where the publication of the awards was concerned and if there were problems for a paper-based publication, there were possibly even more problems for a data base. As to the different categories of users, that was something that had not been addressed, although a similar problem had, that is how much of the material available would be free of charge to all users, and whether there might be a layer structure with more sophisticated information for which the user might have to pay.

Mr Fejø (Nordic Council for Research on European Integration Law (NORFEIR)) had been impressed by the illustration of the UNILEX data base, but he saw that as something different from what was intended with UNILAW. The people who were interested in CISG were to a large extent business people and practising lawyers who would be willing to pay and who would be willing to help maintain the data base. Many of the prospective customers of UNILAW would instead, after an initial period of interest, loose interest as much of the information on UNILAW would also be available through normal channels and through competing channels. One of the competing channels would be the Internet sources where American universities offered, free of charge, information that would be comparable to that which UNILAW intended to offer. It was already today possible to draw from the academic circles on the Internet. At every university it was possible to draw on the law books of the various libraries, to draw on the conventions, or to draw on the judgments, such as for example the US Supreme Court from which one might retrieve all the judgments of the last five or ten years without paying anything. What UNILAW intended to offer must therefore be something which it was not possible to retrieve at present. Secondly, a problem would be the precision of the system: he himself used the CELEX system daily. Originally they had subscribed to the on-line system but it had proved to be unsuitable for people who did not use it every day. They had therefore changed to the CD-ROM based system which had instead proved to be very useful. At the same time it was obvious that that was not the only source that one needed to draw

upon. It was not up to date, and it was not precise enough. With reference to the UNILAW prospectus, he observed that the academic world had been mentioned from time to time, but that it had not been dealt with precisely enough. He thought that the academic world had not been taken into account in the prospectus, as it was not possible to see from it how the academic world should use the data base: for what purpose should they use the data base? Should they use it as their primary source or as a supplementary source? Should they pay or should they not pay for the service? He indicated that he would be pleased to assist Unidroit on this point. Lastly, the budget: how was it intended that the data base should be financed, not only its establishment, but also its maintenance as that would be very costly. It was well-known from paper-based publications how difficult it was to find people to write the national report or whatever was required for a given loose-leaf service, and that it was twice as difficult to find people who would be prepared to continue with the up-dating.

Mr Evans observed that the project had to be seen in context to explain the step by step path followed. The whole idea had come out of at least two years' discussion in the Governing Council of Unidroit, in the framework of an overall policy review. In the course of that review Mr Rose, among others, had suggested that the question of providing, in a much more accessible manner, information concerning uniform law to the whole field of potential users, was one which had not been addressed in any serious way in the past by Unidroit and if it had been addressed elsewhere it had been done so in a rather piecemeal manner, each organisation looking after its own material. From this had grown the notion of UNILAW. The first question was then whether there was an interest in easy access being provided to uniform law. To ascertain this four categories of potential users had been contacted. The replies Unidroit had received had suggested that there was an interest, so the next step had been to see how this sort of data base could look, what it should contain. This was in essence the content of the prospectus, subject to fine-tuning, to changes and to the advice of the other international organisations. As to the question of funding, there were a variety of ways in which one could set about this. If any intergovernmental organisation today started off from the assumption that it had money and then saw what it could do with that money, then it would never do anything. The climate was very chilly and was likely to get even chillier over the next few years. The idea was therefore to try to identify the needs and to see how to respond to them - people might say that this project was very ambitious and it was, but it had to be borne in mind that it would be carried out on a step by step basis. Once one found that one had constituencies, and one had a product that was of interest to them, then it would be up to the Unidroit Secretariat to use its imagination and powers of persuasion to identify financiers among those constituencies (in the first hand banks, professional associations, foundations etc., although he would not exclude governments on condition that any in-put financially would not be an on-going commitment in the general budget of the Institute, but a conscious choice made because they thought that there was an interest in this project, but even so governments would not be the first bodies that would be contacted). One had to be convinced that there was an interest in the exercise, because quite realistically it was not possible to go to potential donors without the certainty that this was a project which was considered to be worthwhile pursuing. It was clearly one which would gain prestige if other inter-governmental organisations were interested in collaborating in one way or another, even if with qualifications. Unidroit was not suggesting that there should be one body, i.e. Unidroit, which should itself set about preparing data banks on all the individual subjects. If something else existed already, it would be foolhardy for Unidroit to try and replicate what was being done elsewhere. When one spoke about a single address, what was intended was that someone who did not really know which organisation did one thing or another - there was confusion enough between Unidroit, UNCITRAL and UNCTAD - could go to this address as a starting point. Some of the work may well be done by Unidroit with the funds which it would be able to obtain and that would be a bank on which it would choose the experts. If there were other organisations which had, or would have, data banks then questions of compatibility would arise, but the last thing Unidroit would have in mind would be to try to pre-empt or take over, it would rather see how

the organisations could work together. As to the financing of the data base, a distinction had to be made between the seed money, and the financing of the project as a whole. Initial costs would include the hardware, the software and a number of other running costs. Subsequently the funding of the experts would be the main expense. He was convinced that whatever the degree of analysis - meaning the conceptual analysis of the type in the UNILEX program - this was by far the most expensive part of the whole operation. One of the factors which had also to be taken into consideration if and when the data base would become operative, was what the potential donors would want, what areas they were interested in. Unidroit might think that one or other area was particularly attractive, but if the donors stated that they had a certain amount of money available if the data base dealt with a certain area, and it was clearly within the area of uniform law, then that would be a very serious argument to take into consideration.

Ms de Lamberterie (Centre d'études sur la coopération juridique internationale (CECOJI)) referred to her experience of the world of research, which comprised both users and those that furnished the materials for the data base, as well as of the practitioners of data bases as she represented the French National Council for Research with the JURISCOPE, a public non-interest group which acted as interface to assist in the furnishing of information on foreign law. She was also President of the ADI, the *Association pour le développement pour l'informatique juridique*, an association which had among its members the producers of data banks, both public and private information providers, publishers and users of data bases, both legal professionals and academics. She had been very impressed by the demonstration of the UNILEX data base. The exemplary character of the data base showed the ideal of what should be done to answer the main concern of Unidroit, which was to promote uniform law through UNILAW. This exemplary character however raised two questions. First of all the link between UNILAW and existing specialised data banks. She could not see very clearly how this link was to be established. The specificity of UNILAW would be information that would be validated by the expertise of the experts in the different areas, but who would then ensure and guarantee the certainty of it being really the relevant information? It was in the data bases that had already been established by the experts that one could find this information. Another problem was the very structure of UNILAW. A data bank relating to the international sale of goods gave rise to particular problems which were not at all the same as those that would be encountered for intellectual property or for transport law conventions. Would it be necessary, in order to apply what could be in common between these data bases as to the methodology, to loose the richness of the specificity of each of these data bases? Unidroit was in the process of creating a network of data bases more than new data bases. In promoting this network of data bases and in permitting inter-connections between these data bases Unidroit could promote the data bases themselves, thereby promoting the investments that had been made and help preserve the richness at the same time. Mention had been made of international organisations that had their own data bases, but in a certain number of countries there were data bases that were national data bases. These were just as rich and deserved to be exploited. She insisted that it was necessary to look for the relevant information where it had already been processed, to use the possibilities offered by these data bases but to retain their richness.

Mr Bonell (Centre for Comparative and Foreign Law Studies) fully understood the doubts and the constructive criticism levied because there were weak points in the project and one of the purposes of the meeting was to understand what could and what should be done. As to the relationship between existing data bases and what could be envisaged under the auspices of Unidroit, if one took the example of the UNILEX, national collections of case law relating to CISG already existed, as well as two international similar initiatives. He was grateful to Mme de Lamberterie for having recalled that the real task of Unidroit was to promote uniformity also by means of furnishing *proper* information, not simply information. What did this mean in the context of UNILEX? It meant starting from the assumption that

every single decision should be given exactly the same chance to present itself as an attempt to apply the Convention. An initiative such as the one Unidroit was taking should more or less follow the same path, because otherwise it would merely be a duplication of effort. If Unidroit's initiative had a particular merit, then that lay in the fact that not only did it endeavour to cover such a universal field, it presented it in a politically neutral fashion with considerable technical expertise, which was not always to be found in other data bases, particularly the national ones where the material relating to CISG was mixed together with the GATT agreements or OECD recommendations. The UNILEX was a project which was financed entirely by the Italian National Council for Research, the reason the product was not simply offered to users but was being commercially distributed was that the Centre had seen a problem in distribution. UNILEX had decided to go to a commercial publisher simply in order to get onto the market. If one spoke in terms of costs the problem of distribution had to be considered.

With reference to the links that might be established between the proposed Unidroit data base and already existing data bases, **Mr Adib (IMO)** suggested that the whole question be approached from an economic point of view and not from an abstract or legal point of view. If there was a demand for something it was much more possible and exciting to furnish what was in demand, rather than to begin by launching a product on the market and then to ask whether people would actually wish to use it. The IMO had specialised data bases which were much in demand. He felt that a link was possible and suggested that as regarded the IMO conventions mentioned by the Secretary-General, he saw the possibility to integrate the information which existed in the IMO data bases by more general information to be contained in the Unidroit data base. This would in the first hand consist in the furnishing of the detailed status of the conventions, and the IMO would be prepared to provide Unidroit with the document that the IMO produced at the end of each year, the *Status of Multilateral Conventions and Instruments*, which contained this detailed information, without requiring anything in turn and without imposing restrictions of any kind. The IMO was also prepared to give Unidroit the complete, detailed and up-to-date list not only of all the conventions of which the IMO was a depositary, but also of a multitude of amendments which it made continuously to these international regulations, as technology changed and needs varied. There were therefore continuously circulars, resolutions and amendments to the conventions and the IMO would be prepared to provide the list of these modifications in the framework of the data base. In his view those that really wanted to know how to build a tanker of 250,000 tons would go to the IMO as that was where they would find all the information. The *IMO-Vega* data base had indeed been produced to furnish that particular service. On the contrary, lawyers or academics that wanted to know what countries had ratified this or that other part of the convention might be more used to working with Unidroit rather than with the IMO, or could refer to either of the two organisations.

Mr Claus (World Intellectual Property Organization (WIPO)) observed that the added value that Unidroit wanted to inject into the data base, which was obviously the analysis, was the largest part of the work. That was where the effort lay and the problem would be to keep it up. WIPO had decided not to go for that part of the added value because it had thought that either it would be too expensive, or that in the beginning someone who was very enthusiastic would support the data base and send the data and then after two years would stop doing so, or that person's successor might not be so keen, and then one would be at the point of departure. WIPO stuck to what it did in its normal operations, it had a legal data base and as regarded intellectual property WIPO was on the forefront. He was happy to announce that WIPO had twenty-four conventions, that every three months it issued a statement on the status of ratifications, and that this information was contained in machine-readable form. Unidroit could certainly have that as part of what the WIPO contribution. This information could furthermore be furnished in both English and French.

Ms Prott (United Nations Educational, Scientific and Cultural Organization (UNESCO)) referred to the suggestion to have a team of experts to put together the information on a regional basis to keep it up-to-date, and wondered whether the intention was to pay these people, as that would answer the question of whether it would be possible to rely on them to have the data base updated at all time.

The Chairman stated that the reply was yes, and that that was part of the proposition that would be put to the sponsors. Without over-emphasising the commercial aspects of testing the market, Unidroit would be looking at demand, at supply from contributors and also in a general sense at interest, which would be interest backed by cash. Unidroit would be looking for sponsorship through a range of different approaches that would be directed, and would be seen to be directed, to funding what was both difficult in the technical and academic way, and costly. However, if the value to all the intended users were to be considered, and Mr Bonell's experience showed that it was extremely valuable, then it would be necessary to pay. The purpose of this meeting was, however, not for Unidroit to seek funding. It would be very interested organisation by organisation, specialist area by specialist area, to ensure that, assuming there were payment, there were continuity, that expert panels were not the Professor for the time being in the Chair of X, but that it were a panel which might be co-ordinated, might be convened by one or other internationally recognised expert who was a part of that panel. Unidroit was hoping for commitment, and for commitment backed by payment over the long term. Unidroit would therefore not be looking to conjure up out of the air the expert group, it would very much look to the other international organisations within whose ambit a subject fell, to assist it in finding experts and ensuring continuity. Unidroit would be looking to provide the financial under-pinning for the carrying out of the value added part. So, for the overall contribution Unidroit was hoping to receive as much as possible from those organisations that were willing to contribute by way of their electronic or other specialist authoritative texts up front, and secondly to identify who the experts were and to ensure the funding and technical support to build those expert panels and to permit them to continue their operation.

Mr Austin (Commonwealth Secretariat) indicated that the service that it as an organisation provided was largely in the form of basic information rather than the kind of analysis provided by UNILEX, except on an *ad hoc* basis. As described in the UNILAW project, the organisations that would work with Unidroit would give texts, analyses where these had been made and information and in return the organisation and its membership would benefit from the work that had been done. In that sense there was no actual contribution in financial terms, it was a contribution in terms of expertise, in terms of connections and in spreading those connections and that expertise around in an efficient manner. The question the Commonwealth Secretariat would have, related to the fact that its agenda tended to change from time to time, although it did have an interest and a concern with attempting to achieve uniformity, for example under the heading of "Commonwealth Schemes", which again were not conventions but rather based on non-legal documents which were very important in terms of encouraging uniformity, but which would change from time to time. There would therefore be some organisations that could make a commitment which was based on their long-term interest and expertise in a particular field, and others that would have greater difficulty in doing so. Having said that, it was quite clear, and he entirely agreed with what had been said, that the analysis of the materials was what was most valuable and what would certainly be a service that the clients that the Commonwealth Secretariat dealt with, which were essentially governments and to some extent the judiciary of member States, would value extraordinarily well. Whether or not they would be able to pay for it as users was one of the major questions. The Commonwealth Secretariat service was based upon it being an inter-governmental organisation whose members contributed to its existence and who received that service free of charge as part of their membership.

Mr Nicora (ITC UNCTAD/GATT) indicated that as regarded the networks, it was necessary to have a team *in loco*. Five years earlier the ITC had had the disagreeable experience of not having people *in loco* to collect relevant documents, whether they were legislative or commercial documents. The ITC had subsequently come to an agreement with the International Court of Arbitration and the International Chamber of Commerce, so as to be able to use the legal networks they had established throughout the world. The ITC had added their own contacts of about 200 lawyers with law firms and these had been given the role of first advisors. He thought that this network, which was not paid by the ITC, could also be used by Unidroit to support the research and the collection of the documents and the ITC would be pleased to offer it to Unidroit. The members of this network had undertaken to reply at first request, whether it be a request for documentation or a query for a client who had problems in a specific country. There would be someone in that country who was a member of the ITC Forum who had the documentation and who could send this client the documentation by fax or in other ways and who could give a first legal advice to the client free of charge. After this, if matters became more complicated, the lawyer would have to be paid. This network had been in operation for five years on these bases. This could perhaps represent the basic core to collect information with reliability. This was important, as the organisations could not be responsible for the correctness of the documents they collected. Even for international conventions it was necessary to do a lot of patience work to make sure of the correctness of all the reservations to the provisions and that was something that the organisations never had time to do. As to the ITC data base, it was available though Internet.

Ms Prott (UNESCO) stated that while she appreciated that that was a very efficacious way to work in this particular field, the experience of UNESCO was that some governments would be unhappy with that and she was surprised that the ITC, which was also an inter-governmental organisation, had not had this problem. Unless the legislation was provided by the national government itself, it could say that what had been provided was not accurate and that the organisation had no right to distribute it as public information because it was incorrect. Another problem was that in some countries it was very difficult to find out what the legislation was. When UNESCO had looked into cultural heritage legislation it had spent a very long time trying to find the relevant legislation. Eventually, through personal contacts in the government, a research assistant had been given this task for a month and had turned up forty pieces of legislation, a good proportion of which they had not known existed. It might depend on the field concerned, it might also depend on which countries were to be covered in the data base, but there could be problems with the approach suggested.

Mr Nicora (ITC UNCTAD/GATT) stated that if there was an expert somewhere who sent a document to the organisation, then that expert did so at his or her own responsibility. If the importer or exporter or the lawyer was not happy with the document, the expert would loose a future client. The expert therefore had all the interest, from a commercial point of view, to perform well. As concerned the second point, he admitted that in Brazil and Paraguay the ITC had had problems finding anyone who would accept to provide documents on the environment in particular. In the end the documents had been found in the official journal and the person who worked in those countries had sent copies of what was in the official journal. Once published, there was no confidentiality. In the countries in transition confidentiality still existed. The ITC had received a copy of the new Russian Penal Code in which the fines had been deleted, because the amount of the fines was confidential. The role of the organisations was to check the information subsequently, but he did not think that that would bind Unidroit or the ITC when they published something under someone else's name.

The Chairman stated that as regarded the Unidroit project the words "authority" and "specialist sources" had been used advisedly, it would be looking to have unquestioned authority for the texts,

whether they were conventions, principles or national legislation. It would not be possible to proceed on any other basis.

Mr Fejø (NORFEIR) recalled that the academic world had not been specifically included among the four groups consulted on the need for a data base. When Unidroit intended to establish the expert panel, he supposed that the members of the panel had to be academics, as they would be the only ones able to provide the material necessary for the comments. He therefore suggested that Unidroit approach the academic world, the universities, and make some enquiries as to how they would look on a data base such as this.

Mr Bettoni (Union internationale des avocats (UIA)) stated that the UIA considered the project with extreme interest. He could also confirm this personally, in his capacity as lawyer, for the simple reason that this project would be of evident interest to the lawyers of the whole world. He recalled that in his introductory statement the President of Unidroit had indicated that "uniform law" should be understood in a broad sense, including also private international law and international civil procedure, he therefore wondered whether it would not be possible to place also international mutual legal assistance among the priority areas. It was an area which was quite small from the scientific point of view, but from the pragmatic point of view it was a subject which was of enormous importance to practising lawyers. The three areas of importance in this context were service of documents, letters rogatory and information on foreign law. Secondly, the UNILAW project was a project which was extremely interesting, extremely important and extremely ambitious, which would require time and money to be carried out. The project had three parts: the instruments, with the status of ratifications and reservations, the case law and the bibliography. As a practising lawyer, he considered the first chapter to be of prime importance. When he had any question which concerned, for example, the relationship between an Italian and a Swede, he immediately had to know what instruments were applicable, i.e. the text of the instruments, their status (ratifications, denunciations, reservations, declarations, etc.). In the second instance he would need to have information on the case law and the bibliography, but that was not as urgent. He wondered whether the enormous labour which was necessary to collect the cases, and also to collect the bibliographical references, was really worthwhile, whether this enormous effort of organisation and labour corresponded to the utility of the product to users.

Mr Zunarelli (Comité maritime international (CMI)), examining how the CMI could contribute to the development of the UNILAW project, stated that the structure of the CMI itself was a very simple structure. It did not have any particular data bases, and he thought that the CMI itself would not be able to provide a direct contribution to the data base. However, the members of the CMI were the national associations of maritime law. These existed in almost all countries which had a tradition in the maritime area. Members of maritime law associations were academics and lawyers operating in the maritime law field. These national maritime law associations could become part of the general network providing the data base with information on a State by State basis. What must be very clear was what type of information was to be collected and who should process that information. If all decisions which applied an international instrument concerning, for example, the international carriage conventions had to be collected that meant a very large number of documents and also a very large amount of money. It would also mean that in all the major states involved in maritime trade, a full-time person would be busy with the collection and processing of this information. If on the other hand it was possible to make a selection, even if he agreed that it was difficult not only to make a selection but to decide who had to make that selection, the matter was different. A decision could be taken to collect only the decisions of the supreme courts of the States concerning a certain subject, or only the decisions of the supreme courts and the decisions of the courts of appeal and possibly also the most important decisions of the

courts of first instance. In this case it might be possible to obtain this information through people working on a part-time basis.

Mr Adib (IMO)) stated that the IMO was one of the most important publishers in the UN system. In 1995 it had sold publications in printed form as well as in electronic form for approximately six million dollars. As to the content of the publications, they all related to the instruments that had been developed, adopted, administered and deposited with the IMO and that had been produced in such a way as to respond to the commercial aspects of the needs of the end-users. They were therefore specifically IMO products, produced by the IMO from beginning to end. Approximately 90% of IMO publications were entirely produced in-house, from desk-top publishing, type-setting, editing, translating and printing. Also the marketing of the products were IMO based marketing processes. The printed publications were classical publications, mostly containing the text of the international conventions, plus the various resolutions, circulars and other related matters, on rare occasions comments and clarifications developed by the Secretariat in order to facilitate the implementation of these rules and regulations. As far as the electronic form of the IMO publications was concerned, the IMO had started producing these four years earlier at the request of the representatives of its member States. There had been a need in the ship building, shipping and maritime administrations industries, as the rules and regulations adopted under the aegis of the IMO had become so complex, had been modified so often, had had to be up-dated so regularly and so systematically, that many people did not know exactly what the situation was, and wanted something that would provide them with the most up-to-date information on the applicable requirements of IMO instruments. The IMO had therefore been asked to study the matter and to come up with proposals. It had examined various ways, in particular the on-line main-frame data base, but after some research it had realised that that approach would not be successful for a variety of reasons. They had thereafter hired a consultant to study exactly how the system for the applicable requirements had to be developed. They had spent around US$ 30,000 and the outcome had been that they were advised to study the market and to see what the demands were and to try to survey the exact needs of the end users. This had been done. When it came to budgeting the operation, which had been estimated to several million dollars, they had been very lucky, because another organisation in the private sector had offered the IMO the possibility of co-operating on something on which that organisation was already working and for which it needed co-operation from the IMO and the use of IMO information. The IMO Council and Assembly had welcomed the offer and the *IMO-Vega* data base had started to be developed. The project had been developed with a classification society and had cost that classification society several million dollars. The IMO did not contribute to the further development of the work which had been done before, but brought in the input in terms of text, in terms of rules, regulations and some other contributions. In the end the first version of the *IMO-Vega* data base had been produced, which had been very successful on the market. They had subsequently up-dated it twice, and a third version was expected in two to three months' time. For budgetary reasons the data base could for the time being be up-dated only once a year. One of the main issues which had had to be decided was whether to proceed with the initial on-line project or with other means of making the information available to users. It had very quickly become clear that first, technology was evolving towards CD-ROM as against the on-line data base, and secondly, and more importantly, the end users of the *IMO-Vega* data base were very clearly asking for a CD-ROM version because they were in ports and factories and CD-ROM were the most convenient tools. The IMO had been successful, the project was very rewarding, financially speaking it was sound and the IMO believed that they were on the right track and that it was going to develop further in the future, but it required a lot of effort on the part of the IMO. The most difficult task was to keep the data base completely up-to-date and not to have the smallest mistake whatsoever creep in, because it was a project for which 100% accuracy was necessary. That was what the users were paying for. The CD-ROM was available on a stand-alone basis at the cost of about £ 1,000 or US$ 1,500, or for four,

eight or thirty-two users who would pay in proportion. Any mistake in the project would completely ruin the project and the IMO was very aware of that.

The IMO had also developed two other data bases in parallel on its own, without the other partners, but with the experience acquired with the *IMO-Vega* data base these had been very successful as well. They sold extremely well and it had been possible to develop them without any initial investment because the texts had already been available also in electronic form. To print them they had used the most advanced technology and it was all ready and all they had had to do was to hire a firm that would print CD-ROM. The cost of printing CD-ROM had been very high a few years hence, but had been going down very rapidly and now it was very cheap. In terms of progress and evolution of technology, the classical CD-ROM that they had been using was the 680 MB and the *IMO-Vega* data base took one-third of that capacity. That represented a lot of work and several million dollars of initial investment. Here they were talking of about twenty IMO conventions for a total of approximately 200 pages. The other two data bases which the IMO had developed on its own did not require any special investment and they would recover the expenses of printing them relatively quickly. The IMO was in the process of producing more CD-ROM and they thought that in four to six years' time, depending on the response of the market, they might produce all IMO publications on CD-ROM as well as in printed versions, and sell them either in printed version or in CD-ROM. They were self-financing and had no subventions of any kind from the IMO regular budget. A special printing fund had been established in IMO since 1965, which was intended to be self-financing and to be used to produce IMO publications. It had been successful and was now in a very healthy financial situation. Over the years IMO sales had doubled and consequently the Assembly and Council of IMO had decided, with the full support of the membership, to use most of the surplus of the printing fund, which amounted to several million dollars, to provide technical assistance to developing countries. That had given a great incentive and purpose to the activities of the IMO, but the main purpose was to put the applicable rules and regulations in the most accurate and convenient way possible at the disposal of the users with a view to achieving the objective *raison d'être* of the IMO, which was safer shipping and cleaner oceans. The IMO was responding by having a dynamic management of the printing fund with the supervision of the highest authorities in the Secretariat and even among the governing bodies. IMO would be willing to co-operate with Unidroit in the context of the UNILAW project, within the limits stated, i.e. to provide Unidroit without any return with the status of all IMO rules and regulations as they were adopted, with the reservations and anything produced in the IMO publication *Status of Multilateral Conventions and Instruments*, and would also give a list of all listings continuously, but would not go further for the reasons explained. For the rest, they would wish Unidroit all success because they were conscious of the importance of the final result if the project took off.

Ms Prott (UNESCO) stated that her organisation ran over eighty data bases, but not all were concerned with law. Those that did deal with law covered six different areas, including education, fiscal sciences, social sciences, culture and communication. In the area of cultural heritage, which was the area in which a co-operation between Unidroit and UNESCO could develop, UNESCO did hard-copy publications and had just brought out a CD-ROM. They had recently put material on the Internet about the World Heritage Convention and the World Heritage sites. This was a co-operative arrangement between the World Heritage Centre of UNESCO, Tufts University which was already running some information on those conventions, and ICOMOS, the *International Council of Monuments and Sites*, so they were quite comfortable with linking with other organisations and sharing information. In her Section records were kept of the conventions on cultural property as well as of national legislation, and when they received information about case law they kept that as well, but they did not actually search for it. They did try to keep the legislation up to date, but that was a very difficult and time-consuming task which had all sorts of little quirks such as the one already mentioned. They had published in hard-copy over forty pieces of national legislation on cultural heritage, they had published extracts from over forty more and

they had published summaries of particular aspects, for example, of export control legislation of cultural property. They also published the UNESCO Conventions and commentaries on their conventions.

As to the UNESCO contribution to Internet, her section in co-ordination with Tufts University had provided the University, which therefore ran them even if access was possible from UNESCO, with the text of the conventions and the list of the parties. That particular data base included also the text of the Unidroit Convention and the current state of signatories to that. UNESCO had four or five years previously looked very seriously into the idea of a computerised data base on legislation. They had decided not to set one up, because they did not see themselves as having the resources to do so. They already had sufficient problems just to keep the legislation up-dated and they had realised that, not only to keep it up-dated, but to key it in, and to keep servicing it would be a task that was beyond the size of her Section, which only had four persons in it. Another difficulty about this kind of legislation was that some countries published all their legal regulation of the protection of cultural heritage in one piece of legislation which then turned out to be enormous, whereas others published it in little pieces, so there were thirty or forty different pieces of legislation. It was then necessary to decide what aspects should be concentrated on. For example, was all the material about the control of museum collections necessary if one spoke about movable cultural property? Numerous decisions had to be taken. UNESCO found that their queries came from four main sources. Probably the one they had most queries from was national governments who were thinking of changing their legislation and wanted to see what other governments had done. Probably an equal number of enquires came from university researchers that needed the information for their own purposes. A much smaller number of enquiries were made by law firms. The fourth group was the press, who wanted everything yesterday because they were publishing it today.

As to the possible contribution of UNESCO to the UNILAW project, it had a lot of information on laws, it had an almost complete set of national laws, it was presently trying to up-date them, but that was a process which took time. UNESCO would be happy to let Unidroit have that information, it would be happy to see it put on a data base because it could not do this itself. In some ways UNESCO would have easier access to acquire the material than Unidroit, because its much wider membership base made it easier for UNESCO to make official contacts to retrieve this material and it would be very happy to do that. UNESCO was working on the possibility of a register of stolen cultural property. This was something they had been looking into since 1992 when they had had a meeting to see if it was possible to co-ordinate the different data bases that existed. This was quite a complicated project because some of the databases were commercial and some were public service, police data bases. There was INTERPOL which was both inter-governmental and police, and there was a commercial network such as the *Art Loss* register in London and a public service organisation like the *International Foundation of Art Research* in New York. Terms had to be found on the basis of which all these different data bases could collaborate. The idea would be that the entry point would be UNESCO, because that was the obvious place that everybody would come to look if they did not know about the more specialised data bases, but UNESCO would not run anything, it would just direct the enquiry around to the other data bases to see if there was a match with the objects they were looking for. Connected with that project UNESCO had been working with a number of other organisations under the chairmanship of the *Getty Art History Information Program*. They had spoken in the context of that grouping with the Council of Europe, the Organisation for Economic Co-operation and Development, the Council of Museums and ICCROM to see if a set of internationally accepted criteria could be set up for the minimum data necessary to recognise cultural property. Unless there were standards for the minimum data, it would not be possible to make a protocol for the exchange of this data. A meeting was scheduled to be held in Prague later in 1996 to finalise the criteria. The Getty Art History Program had brought out a report in 1995 on their findings to date. Ms Prott stated that UNESCO would be happy to work with Unidroit on the UNILAW data base.

She had information on a number of other data bases that would be of relevance to the project, but suggested that that might be kept until talks on the topic were entered into in greater detail.

Mr Claus (WIPO) stated that his organisation dealt with intellectual property on a world wide basis - patent law, copyright law and trademark law - and everything connected with it. Electronic publishing, which he thought was the subject of the UNILAW effort, had started in WIPO five or six years earlier and the problem they had faced was exactly the same as that which had been faced by the IMO. WIPO had an enormous amount of paper publications produced by printing from data bases or simple electronic files. They had wanted to offer to their constituents, namely patent and trademark offices and also the practitioners - patent and trademark lawyers, copyright specialists - alternative ways of storing information. WIPO had gone into electronic publishing in the first instance in the patent field together with the European Patent Organisation which ran one of the most extensive electronic publication operations, certainly in Europe. The EPO published more than 500 CD-ROMs per year, original titles, with editions of as much as between 500 and 700 copies each. The WIPO had decided to co-operate with the EPO as the latter were already engaged in electronic publishing and there was no point duplicating the work. In trade marks there was a problem, as the WIPO had an international trademark register which was very much in demand in paper form. Every month a bulletin which was larger than a telephone catalogue was published and they had developed the concept of publishing this by alternative means, which at the time was only CD-ROM. If they were to consider the same project today, they might do it differently, although they would perhaps not look to on-line data bases because of the expense associated with these, but to Internet and to CD-ROM as a second means.

In 1991 WIPO had issued an invitation to tender for the electronic publishing, had received a number of offers and had selected two companies. They had not spent millions of dollars, and they had not used an external publisher. They had finally decided to deal with the whole project themselves. His estimate was that they had spent about a million Swiss francs to develop two completely independent software platforms. One of these was highly suited for structured data, such as data in an international trademark register which would carry the name of the owner, a list of goods and dates. A CD-ROM which had been developed within WIPO over the last three years was called *IPLEX, Intellectual Property Laws and Treaties.* The texts on the CD-ROM were in four languages, always English and French, but also Spanish and German if available. The texts had been retrieved from the printed texts which they had already had in data files and which they had converted into a data base with the help of a software company which had also developed the appropriate software. They had decided not to go for value added text as they could not afford to treat the texts beyond giving them a rough classification, but they had put a very high level of sophistication in the software. In June 1996 they would implement new software which would allow for fuzzy search. This permitted a search for similar expressions or synonyms, so they felt that the added value of coding and extensive indexing of legal texts was no longer needed. The *IPLEX* disc was published every three months. WIPO sold it but also gave it away to learned institutions that proved that they would put the disc to good use.

What WIPO could contribute to the UNILAW project was expertise on how to set up and how not to set up the data base. On WIPO's behalf he had spent about one million Swiss francs, but in the case of the trademarks he had had to borrow the money and subsequently to pay it back. In two and a half years WIPO had produced nine CD-ROM and in each case a list of the laws and treaties contained on the CD-ROM was given to the buyer. All twenty-four WIPO treaties were contained on these discs, in English, French and Spanish. The national laws were in most cases available in English and French. He referred to the statement by Ms Prott on the difficulty of obtaining up-to-date legislation and gave the example of the United States, where almost every session of Congress produced an amendment to the patent law or the trademark law, with the consequence that it was very difficult to keep those texts

always up-to-date. In the case of the European countries instead, the system was quite stable. Once the patent law, for example, had been approved, it took maybe ten years before any amendment was made but that was not true of common law countries. The WIPO data base provided for string search, not in key words but in the actual logical continuation of an article: if it was said that the words should be adjacent they would be adjacent, if they should be separated in a certain way, they would be. WIPO had started examining the possibility of going on Internet with this data base. There were multiple problems, it was for example not possible to offer the same sophisticated search tools on Internet as on CD-ROM.

In December 1995 an agreement with the WTO had been signed by which WIPO undertook to keep the data base up-to-date. WIPO was in the enviable position that its agreements, and the WTO's TRIPS agreement, provided for an obligatory submission of all the related texts of intellectual property to the WTO or to WIPO. Taking this into account, the two organisations had agreed that they would exchange notifications, so if country X notified to WIPO, also the WTO would accept that as a notification and vice versa. The WIPO intended to extend *IPLEX*. The disc contained about 200 basic texts and they estimated that there were about 1000 texts to add: if one considered all aspects of intellectual property, there were about 200 countries, with an average of five texts the total came to 1000 texts. The intellectual property law that was available in WIPO on paper filled a certain number of shelves, but if one looked at the bibliographical lists that went with the texts, for some countries these amounted to as much as forty pages. The first task was to find out which laws and regulations were still in force and to ensure that they went into the data base in fac-simile form if they were not available in coded form or in full-text coded form. Thus, disc A would be fully searchable with the software, to which a couple of CD-ROM would be added with the original texts in fac-simile for reference purposes. When time and money permitted, an English translation would be made for insertion on disc A. They had a sizeable budget allotted for this project for the next two years. In the experience of the WIPO, if one proceeded step by step, if one chose the CD-ROM publishing platform carefully, then it was possible to come to a reasonable cost for a CD-ROM publication as an alternative to paper. The *IPLEX* budget was 120,000 Swiss Fr per year, for which four discs were produced in 500 copies. Every three months a new version of the CD-ROM was published with both added and improved texts. By 1997 they hoped to have 1000 fully searchable texts in English on the CD-ROM.

Mr Bonucci (OECD) stated that the OECD was not a universal organisation, it only had 26 member States. Although three or four more States might join before the end of 1997 and some more after that, he very much doubted that the OECD would ever become a universal organisation unless there was a total change of policy. It was furthermore a multidisciplinary organisation, i.e. it worked in a number of very different areas. It worked in the economic area but also in environment, social policy and naval construction. It was not a legislative organisation, it was more in the nature of a "think tank". All this had to be taken into account when its possible contribution to the UNILAW project was considered. The OECD adopted international agreements extremely rarely. In the last few years it had adopted only one, very particular agreement in matters of subventions for naval construction, and this agreement had very few parties. They were presently negotiating a multilateral agreement on investments, that was in the first hand intended to be open only to OECD member States, or possibly to the member States and a certain number of non-member States, and also in this case it was not intended to become universal immediately. These instruments were however exceptions to the OECD's normal activity. The OECD did adopt decisions and recommendation, but also in this case its production was relatively limited: over the 35 years of its existence between 35 and 40 decisions, which had the characteristic of binding the member States, and about 150 recommendations had been adopted. In addition there was a series of instruments which were atypical, such as declarations, arrangements and understandings. These might be called "soft law", but in effect they did have a certain importance for member States.

The Legal Directorate did not have any legal data bases. As to the publications, the OECD had an on-line service called OLIS ("On-Line Service"), which was a service that included all the internal documents of the organisation. It included all the reports and working documents, all documents that were still confidential or restricted. Although he could make no commitments, it might be possible to examine the extent to which Unidroit might have access to OLIS, or at least to part of the data base. In any event there was already a built-in distinction, in that there were some documents to which only member States had access, whereas others were open also to States with an observer status. The OECD had a very active publications service which in 1995 had published 662 titles. It had more and more CD-ROM publications, most of which would be available both in paper-based format and on CD-ROM. The OECD was also on Internet, although he thought that as yet not very much was offered on Internet. As to what the OECD could offer Unidroit, in the first hand, as stated, a possible access to the OLIS data base, and secondly the text of all the decisions and recommendations as well as of the possible agreements which the OECD might negotiate. The OECD could also serve as a link with its member States. Considering the numerous working groups and committees which met at the OECD every other month, it could furthermore serve as a link for research relating to national legislation or to court decisions. As to the experts, the fact that the OECD was a multidisciplinary organisation meant that there were working groups which disappeared and others which appeared depending on the requests made by the member States. There were of course certain constants, so, for example, if the presence of an OECD expert on investments was requested for a meeting, that would be possible.

Mr Orlandini (Council of Europe) stated that although the Council of Europe had a considerable amount of information on computers, on discs and on tapes, it had very few data bases. It had a data base called CERES, which was a bibliographic data base which contained a list of documents and of the hard copy collections. The HUDOC data base contained the full text of the judgments of the Court of Human Rights since 1960 and of the decisions of the Commission of Human Rights since 1985. The EDICONV data base contained the status of signatures and ratifications of the 160 conventions of the Council of Europe. None of these data bases were accessible to outside users. They were on-line only for the house itself. The possibility of opening access to outside users was being examined, but the problems associated with security and the precautions which would need to be taken had not yet been solved. This was also why the Council of Europe was so interested in the UNILAW project. It was a project from which they thought that they could learn a lot, and to which they did think they had something to contribute. They were willing to contribute the totality of the Council of Europe Conventions, amongst which Unidroit could choose the ones it wanted to introduce into the UNILAW data base, they were willing to contribute also some 1300 recommendations which the Council of Europe had produced since its inception and the status of signatures and ratifications, which was up-dated on a day-to-day basis. He did not think that they could contribute much expertise to the building up of UNILAW, but they were prepared to contribute a liaison officer who would attend the meetings of experts where the policy underlying UNILAW would be defined.

The Council of Europe did have a publishing activity that administratively was linked with the printing of their internal documents by publishing some 240 titles per year, which they were equipped to produce in-house, from desk-top publishing to type-setting to marketing. They tended to sub-contract the production every time they found it cheaper to do so than to do it themselves. For many years they had had a "soft-sale" policy, i.e. either free distribution or concessional rates. They had become slightly tougher, but in no way did they make as much money as the IMO, also because they found that it was necessary to have a captive audience to be able to sell considerable quantities of literature, especially if one aimed at getting a high price for it. In that respect they had only one product, which was on CD-ROM, the European Pharmacopoeia, because it was a reference product that was of a compulsory nature for the pharmaceutical industry and they were able there to have a captive audience that would

allow them to cover their costs. For the rest, they were thinking of putting the conventions and the status of ratifications on CD-ROM, and hopefully that project would have been completed within a year or so. He stated that he had been very struck by Mr Bettoni's remark that what the people using international treaties in fact needed most urgently was a data base of the treaties themselves, with the ratifications and reservations. He tended to think that that was the most simple, and probably also the cheapest, part. All those texts were in the public domain, they were all happy to give them to UNILAW and to have them on-line for anybody who wanted to consult them. It was the kind of operation that could be run at a low cost and very quickly. He wondered whether UNILAW could be a platform where the user would come in and find the treaty, the ratifications and reservations and if he or she needed more in-depth information, while UNILAW was being built up, be re-routed to the appropriate body where that case-law originated, where a substantial amount of material was to be found which it would be extremely costly, and sometimes also politically difficult, to duplicate on one site.

Mr Rose stated that the idea of starting with the conventions and the ratifications and reservations was an idea Unidroit was considering. A clearing house type service might also be envisaged, through which they could be referred to an expert specialist body that might advice them on the interpretation of the texts.

Mr Austin (Commonwealth Secretariat) observed that also his organisation was not particularly a producer of important international conventions, although the Commonwealth did seek to promote mutual legal assistance based on schemes which amongst other things encouraged uniformity of law. That was done within the very specific context of the Commonwealth, which was a unique organisation with no binding decision-making organ but which had a biennial meeting of Government heads that in fact evolved a policy. From the legal point of view it was important to note the rather dramatic developments of the Commonwealth since 1990, as an organisation that was very much concerned with good governance and in that sense with the law and institutions which were legally based. Traditionally the Secretariat had been very much seen as a centre of information exchange. Material from other Commonwealth States was obviously easily digested by virtue of the uniform language of the Commonwealth, which until recently had been entirely made up of former British dependencies or Commonwealth States. That had changed in 1995 when the Cameroon and Mozambique had joined, the latter becoming its first Lusophone State. The need for information was certainly regarded as very important, both by the Secretariat and by the member States, as a means of promoting the fundamental political values of the Commonwealth, which were very much charged in the law itself. The question was then how that could be promoted and what they did in this field. Much of the work was conducted in terms of the exchange of information, traditionally through the *Commonwealth Law Bulletin*, which was essentially a paper based information process that went on quarterly and was extremely expensive, not only in terms of production but also in terms of distribution.

The Commonwealth saw the work Unidroit was about to undertake as extremely important, mainly because it knew how important its member States, particularly the very large proportion of developing member States of the Commonwealth, saw legal information and the need to obtain it. Unfortunately, most of these States needed to obtain the information at the minimal possible cost, free if possible. Much of the service offered by the Commonwealth was therefore in that form. One of their constant problems was finance. In particular, the debate was whether or not the provision of legal expertise/information could be regarded in the modern world as being developmental and therefore to qualify for development funds, which were marginally easier to obtain than other forms of finance. The Secretariat would argue very much that development of the legal framework and the profession was basic to stability and was therefore a very developmental dimension, but that was not necessarily accepted by all funders. At this particular point the potential that the Commonwealth saw was that the Secretariat act

as an exchange point. They were obviously in a position to obtain information from their member States, even if this sometimes was extremely difficult, as it was also expensive for the States to send the Secretariat the material. It was therefore more difficult to persuade those that had less money in this regard. Nevertheless there was an anxiety and a readiness to do so. The other point about the Commonwealth contribution in terms of its comparative advantage was that for many States the process of imbibing and involving themselves in the transfer of such information could take place much more easily within the Commonwealth context. They had a series of meetings at the legal level which ran from ministers' meetings through to senior officials' meetings at which very much information exchange took place and a lot of materials were produced. In particular, one of their obligations as the Secretariat saw it, and as had been endorsed by the Heads of Government, was to co-operate with the international community and all the organisations, particularly the United Nations, in the furtherance of their various tasks which were seen as being contributory to basic stability and peace. In that sense it could also be used as a centre which might be slightly more familiar, and therefore user-friendly, to some, particularly of the smaller states, in terms of developing capacity and receiving information as well as giving information which hopefully they would then be able to share with Unidroit and with other members of the international community who were concerned with these legal matters.

Mr Franco (World Trade Organization (WTO)) stated the business of the WTO was not *per se* to develop uniform law, their business was to negotiate the reduction of trade barriers between States and to bind the result of the negotiating effort of the member Governments into a legal framework. As part of the process it was necessary to ensure that the value of what had been negotiated was maintained all the time. It was from that angle that the very important normative framework had been developed in connection with the negotiating round of the former GATT and would be further developed in the future round of the WTO. The law-making process in the WTO was that of sovereign national governments negotiating multilaterally a number of concepts and normative standards which they then expected to see reflected in the trading behaviour of those States that had subscribed to them. This might or might not require the introduction of new laws or changes in existing legislation. The fact that they had moved from being an organisation dealing solely with trade in goods to being an organisation that dealt with much more than that - services, intellectual property, etc. - had added to the complexity of the normative framework considered. This process was controlled basically in two ways. First, it was controlled through a dispute settlement mechanism, which was also a characteristic of the organisation and necessarily so, because it was a contractual organisation, a mechanism that might include a process of arbitration or adjudication and that was only open to governments. Secondly, the normative framework was controlled through the extensive notification requirements that had been put in place.

The work of the WTO proceeded from the government multilateral negotiation to the development of domestic law which reflected the commitment of the States. A data base which was already in place was the analytical index which contained the body of cases of the GATT and would contain the body of cases of the WTO. It was organised by legal concept by article of the various agreements and contained the interpretation of provisions as it resulted from case law. This interpretation came entirely from the end of the member Governments, as the only interpretation the Secretariat did was when a recommendation stemming from a case was adopted by the governing body of the organisation. In such a case this interpretation would become the formal interpretation of the organisation. The analytical index, which was a big book, was up-dated every few years, but its content was up-dated with cross-references practically every year through a collection of legal papers that was called *Basic instruments and selected documents* which added to the case law. This material was also available on CD-ROM. The WTO operated a local network for its own benefit, which member Governments were increasingly joining.

The second instrument, which was entirely new, related to notification. There were now two basic categories of notification: the *Standard notification requirement* which included notifications relating to the submission of different laws and regulations or to any changes in the existing laws. This might be a one-off notification or a periodical notification depending on the nature of what was being notified. The second category was the *Specific notification* which was required either for the reservation of some rights under the existing agreement, or to ensure the utilisation of a particular provision of the agreement, such as if there was a time limited exception. As this system was now in place, and as there were now 116 governments and a few more in the pipeline, at Marrakech it had been made mandatory to the WTO to establish a central registry for these notifications. This central registry would take the form of an electronic data base and would provide an inventory of all the notification requirements under the WTO, an index of all notifications received by the Secretariat from member Governments and information on compliance by members of notification requirements if a request was made to that effect. As the task was huge, the Secretariat had established a task force to see how technically an appropriate software format could be developed to deal with this collection of information. What had been retained was a system of index cards which stored the essential information on notification. Each record would contain information on the notifying member or members, the members to whom the notification applied, the date of the notification, the subject of the notification, the requirement under which the notification was made, the periodicity, the trade coverage by sector and products to which the notification referred, the existence of any counter-notification, the symbol of the corresponding full-text notification document and other comments that the notifying Government might wish to add while tabling the notification. 1995 had been a trial year. The work was not easy as it involved several thousand pieces of different notifications per year. They were also organising workshops to help and make officials of member Governments aware of their commitments. Some time would pass before it became fully operative. It was clearly a priority item on the agenda of member Governments, as it had some bearing on the implementation of the commitments which had been undertaken by member Governments when they joined the WTO. This also explained why there was considerable sensitivity in member Governments in relation to the providing of information, even if there was a ministerial obligation that would make it mandatory for them to do so. Another reason for this sensitivity was the question of the distribution of the final product of the central registry of notification. It would certainly go to member Governments, but in what form it would be made available to other instances than member Governments was open to debate.

Mr Mutz (OTIF) felt that the discussion had demonstrated that the situation of the different organisations represented at the meeting differed, even if one or two points were common. With reference to the observations made by Mr Bettoni, for the practising lawyers even the texts were at times difficult to obtain and this despite his impression was that that was the least problem. As to the value added envisaged by the UNILAW system, this immediately brought with it the problem of copyright, which was a problem that was faced, or would be faced, also by other organisations such as the IMO and UNESCO. For example, the UN/ECE Trade Division, which among other instruments managed the CMR Convention, had telephoned as it wanted to make available on Internet both the CMR and the COTIF as they were parallel conventions. He had had no problem stating that although unfortunately their convention was not available on diskette, the UN/ECE could have the text of the convention on paper and that OTIF would be very grateful to receive in exchange that same text on diskette once it had been made available on Internet. He had been able to say this because the text was a public text and, even if they did sell paper copies, they had every interest in the text being known through Internet even if free of charge. The situation was different as concerned the regulation of the transport of dangerous goods. This was a major publication of several hundred pages which they were obliged to publish and the publication of which cost more than 100,000 Swiss Fr. They therefore financed this publication by selling paper-based copies. There were therefore financial problems associated with this publication. This was something which should be taken into account when one went one step further than the simple question

of the texts. If in effect at research level it were possible to improve the programme so as to render a preliminary analysis superfluous, the problems would be much simpler. On the contrary, they had seen that in the UNILEX considerable work went into the preparation of the texts, and at that point the question had to be asked whether there was good correspondence between the effort required to insert the texts into the system and the frequency of consultation. It was only if there was good correspondence that the project could be defended financially. He supposed that the situation was very different from one organisation to another. OTIF was concerned with an area of uniform law that had existed for more than 100 years and for which the convention had been modified regularly at intervals of about ten years to take into consideration all the legal questions that had arisen in the meantime. There had therefore been a continuous development. There was however not much case law. There were about a dozen judgments of which they were aware among their 37 member States. The question was different than for the CMR on which there were hundreds of cases every year. As to their documentation, they had a manual fichier with between 1,800 and 2,000 judgments, most of which were very old. He felt that it would certainly be very interesting to have this material available electronically, but he feared that the frequency of demand did not necessarily justify placing all this material on electronic means. Future judgments could instead probably usefully be made available electronically.

Ms Prott (UNESCO) recalled that when the World Heritage Center had put the information on Internet it had done so as a public service and had had the experience of seeing this information down-loaded and being sold commercially within a couple of weeks.

Mr Roth (Ingenium Software Ltd.) stated that in the course of the meeting he had heard about a number of successful data base projects and information distribution programmes, some of which had generated substantial revenue that needed to be protected. That was one area in relation to which Ingenium was working with Unidroit. He stressed that a major consideration was working together with the organisations on the data base, not working against them. The intention was to support the existing projects wherever possible. That meant that the organisations could provide Unidroit with certain texts and certain indications that could be included in the data base, that would route users of UNILAW directly to the data bases of the other organisations. The other organisations could look upon the UNILAW project as a marketing vehicle for their own data bases. As the project progressed this would be looked at very carefully. Properly done, the UNILAW data base could work closely with the data bases of the other organisations and support their current efforts.

Mr Decheix (Institut international de droit d'expression et d'inspiration françaises (IDEF)) stated that the purpose of his Institute was to ensure legal co-operation between French-speaking countries. With the political developments that had taken place, it had extended its activities to countries the law of which was inspired by French law even if the language of the country was not French. They had thus begun with the state of Louisiana, which was the only state in the USA which was regulated by a Code of law which was directly inspired by the French Civil Code, even if it was written in English. Similarly, in the Dominican Republic it was the French Civil Code that was applicable, even if it was in Spanish. In a certain number of countries the language used was Arabic, in the Flemish part of Belgium it was Flemish. They also had relations with countries in the Far East that had been subject to French colonialisation. They had already held twenty-four congresses, the acts of which were published and amounted to some 15,000 pages. They were presently negotiating with the *Agence de coopération culturelle et technique* with a view to making the acts available on Internet. The countries that were party to the IDEF needed legal documentation. This legal documentation was essentially the texts of laws and sometimes of conventions and in this respect the IDEF could benefit from the data base Unidroit was planning to create. They wanted to do something more, as experience showed that having a law or case law was not always sufficient. They had therefore in the course of the last seven years conducted a

variety of studies, and their intention was to derive inspiration from the system used by the notaries, the *CREIDON (Centres de recherche et d'information et de documentation notariale)* of which there were half a dozen in France. The most important question was the financial one. The notaries had solved the problem by having all French notaries pay a mandatory fee that was calculated in relation to their turnover, so that the CREIDON had sufficient funding. When a notary needed information he or she would contact the CREIDON that would furnish the information immediately it had it available. If the information was available on a data base elsewhere it would contact that data base and if the subject was difficult and required a specific study to be done it would contact an expert who would provide a written consultation against payment. The system was interesting and the IDEF wanted to try it out. In October 1995 there had been a meeting of Franco-phone ministers of Justice in Cairo. Forty-two ministers had been present or represented at the meeting. At that meeting he had described this system and it had been favourably received. The financial aspects were still to be examined, as the IDEF was a private association that only had the fees of its members as resources and in general lived on subventions. To have their informatics system take off it would be necessary to have funds, which could only be public funds or funds from the *Agence de coopération culturelle et technique* which itself was funded from public funds. If the system did take off, then they would be able to accept orders from a certain number of interested people and these orders would be billed. As to the case law, he indicated that there was no meeting of the IDEF at which the judicial system of a great number of countries was not put under accusation. Many judges were corrupt and the decisions rendered in such conditions could not serve as the basis for a consistent case law. The decisions were furthermore motivated extremely summarily and for good reason. If one wanted to base oneself on these cases to create a case law and to put them into an informatic system with a view to providing users with a line of conduct, that would not be appropriate.

Mr Nicora (ITC UNCTAD/GATT) stated that before coming to the meeting his service had examined Internet for the purpose of seeing what it contained as to legal data bases. They had discovered that the Americans has developed an interesting system by which they had a data base which indicated all the other data bases, and which conducted the research for the user. He thought that they could place that information in a catalogue and he would be pleased to send it to Unidroit. By using this system a duplication of work could be avoided and perhaps UNILAW could refer automatically to these other data bases.

Ms Prott (UNESCO) stated that that was exactly what would be done with the data base on stolen cultural objects. UNESCO would run nothing, it would simply be the point of entry for the enquiry. They would provide the software and would ask the other data bases what appropriate data there was. It was not a technical problem, all that had to be done was to get the agreement of the other data bases and the right protocols.

Mr Rose thanked all participants on behalf of Unidroit for having given their time and views. There were many things that the participants had either offered or put on the table that Unidroit would like to come back to individually after the meeting and it would be trying to do that in the weeks ahead. There was certainly the basis for a degree of optimism. The conclusion appeared to be that if UNILAW proceeded step by step there was quite a substantial foundation for it to build upon and that gave the Secretariat confidence in going to the Unidroit Governing Council. Not only was there identification of demand through the surveys that had already been conducted, and probably through those that had been suggested should be conducted in the future, notably a survey of the needs of academics, but also from the point of view of supply and co-operation from most, if not all, participants in the meeting at one level or another. Unidroit took great comfort and heart from that. It looked forward to coming back to build on that co-operation as it itself, with the assistance of its consultants, developed more of the detail of the UNILAW concept.

Mr Rose thereupon closed the meeting.

ANNEX I

OPENING ADDRESS BY MR LUIGI FERRARI BRAVO, PRESIDENT OF UNIDROIT

Dear Colleagues, Ladies and Gentlemen.

It is with great pleasure and pride that I welcome you here today. In the course of its seventy-year history, Unidroit has seen a great number of meetings, many of which with representatives of our fellow international organisations, but none of which has assembled as many as are represented here today. This is a clear indication of the interest of the subject under discussion, namely the creation of a data base on uniform law.

Today we live in a society in which information technology has spread into all areas of life, professional and domestic. A large number of our households are indeed connected with the most diverse data bases via services such as the Internet or CompuServe. Communication is via e-mail, even for such simple matters as the sending of New Year greetings.

Law is often slow to capitalise on the opportunities provided by modern technology. This is true of law in general, but is especially true of those areas of law which are mistakenly perceived by many as of no immediate interest to everyday business and social life, that is, international and comparative law. In many developed countries there are data bases, mostly commercial data bases, which offer information on domestic law - legislation and case law - but there are relatively few that deal in any systematic way with international law in general or with uniform private law in particular. A number of international organisations also have initiatives underway or at the planning stage for their specific fields of activity. You will no doubt be hearing more about these initiatives from participants in this meeting.

The problem is not so much that information on uniform law is not available at all, but that in most cases it is not available in a structured form and that the effort required to retrieve the information is such as to make the costs, in time and money, almost prohibitive. This difficulty of access weighs against the ready adoption of uniform laws in practice and the communication of its best practice standards throughout the international community.

The Unidroit initiative was born out of a growing awareness of the difficulty our organisation faces in the retrieval of the information it needs for its work. Over the years Unidroit has adopted international conventions, uniform laws and most recently sets of Principles. These instruments are all the product of intense comparative study and efforts to arrive at compromise solutions acceptable to the different legal traditions of the world. In this process information is essential - information on national legal systems, information on national case law and the solutions adopted by national judges, information on the international instruments themselves as well as information on bibliographical sources.

Unidroit is clearly not an isolated case. Most international organisations are set up to provide States with a neutral forum in which to discuss, co-ordinate and resolve issues of common interest. They provide an institutional framework through which relations among nations can effectively be promoted and discussed in such a manner that situations of conflict are reduced to a minimum. One effective way of organising relations among nations, and between individuals of different nations, is through uniform law.

The procedure followed in the preparation and adoption of international uniform law instruments does not vary greatly from organisation to organisation. That adopted by Unidroit is in general flexible, allowing as it does for modifications responding to the nature of the final product. A subject is proposed, a preliminary comparative law study is conducted to ascertain the feasibility of the project, a study group is convened, then a committee of governmental experts works over the draft and finally, if the end product is an international convention, a diplomatic conference is held. Information is clearly necessary in one form or another at all of these stages, but perhaps most importantly in connection with the preparation of

the comparative law study. It is in the identification of the problems faced in different jurisdictions and of the solutions that might be acceptable to as many different countries as possible, that most information is needed.

In the past it was considered to be sufficient if only two or three legal systems were taken into consideration. This is no longer true. The increase in number of sovereign States which have resumed, or are developing, independent legal traditions has increased the number of legal systems which now must be taken into account by the comparative lawyer. It has been the practice to supplement the permanent staff of international organisations with outside consultants to ensure an adequate representation from the various legal systems, but there is a limit to how much this practice can overcome the information deficit. An irreducible minimum amount of information, including most importantly details of the practice and application of the law, must be available to the officers of organisations for their basic research. The problem, as always, is the retrieval of this information. The problems of retrieval do not concern only the actual finding of the materials, they concern also the accessibility of the information once retrieved. Only very rarely is all the information needed available in one of the major languages of the world. Important legal texts or treatises are on occasion relevant to the undertaking of a particular survey required in the background preparation for a harmonisation project, but for the purposes of the international organisations it would be preferable to have available in a pre-digested way all the primary texts, case law and relevant learned writing on each of the major areas of uniform law.

The actual preparation and adoption of uniform law instruments is only the first step in the unification or harmonisation of law. The test of the success of uniform instruments comes with their application - by judges and arbitrators, practising lawyers and legislators. All these categories of professionals require information when they are called upon to deal with uniform law. All are therefore potential users. In order to ascertain the interest of a number of categories of potential users the Unidroit Secretariat conducted four surveys at the end of 1994.

The categories of potential users contacted were: members of the International Bar Association, chambers of commerce and industry, arbitral tribunals and international organisations. The most detailed of these surveys was that conducted among the members of the International Bar Association, to whom a questionnaire was sent. The findings of this survey are revealing.

The *International Bar Association (IBA)* includes practising lawyers, academics, judges, in-house counsel, government officials and legal advisers among its members. Of these, a selection was made on the basis of committee membership, professional background (academic, practising lawyer, judge, etc.), and nationality. As broad a selection of different nationalities as possible was made, so as to ensure a representative sample of potential users.

Approximately ten percent of those contacted responded: 57% of respondents were practising lawyers, 27% academics, 3% judges and 13% other members. Of this number about 70% stated that they used principally paper-based information sources. Only a small minority used on-line data bases or CD-ROM sources. With respect to their future preferences 50% opted for on-line data bases and 40% for CD-ROM.

This future preference for electronic based research devises was clearly based on dissatisfaction with present research tools: 70% declared themselves to be dissatisfied, only 30% were satisfied. The majority of respondents stressed the need to have a source of information which was up-to-date and not as time-consuming as paper-based systems.

The information elicited in the other three surveys confirmed the general desirability of an instrument such as the proposed data base.

In addition to the surveys, contacts with a number of States suggest that the proposed data base would be of considerable interest also to Governments. This interest was clearly expressed in correspondence with the International Relations Division of the Ministry of Justice of the Slovak Republic, with the Standing Committee of Legal Affairs of the Estonian Parliament, with the Department of International and Comparative Law of the Ministry of Justice and with the Ministry of Foreign Affairs of the

Republic of Latvia, with the International Legal Co-operation Department of the Ministry of Justice of the Ukraine as well as with the Centre d'études juridiques et judiciaires of the Tunisian Ministry of Justice.

One of the complaints levied most often against the presently most common systems of research was the fact they are time-consuming. This is due at least in part to the fact that at present there is no single point of reference to which those seeking information on uniform law can turn, for the simple reason that uniform law instruments have been prepared by and adopted under the aegis of a number of different organisations, each of which takes care of the information which relates to its own instruments. The retrieval of information is therefore often difficult and at best time-consuming. The setting up of an information system, with a central data base as the fulcrum and computer links with other major data bases, is an effective answer to these problems.

The time needed for consultation will depend also on the efficiency of the classification system used by the data base consulted. For example, a majority of data bases do not classify the materials they contain by legal concept. Access to the information is therefore through elements such as the number of the article of the convention, the date and number of the court decision, the names of the parties, and the actual words used in the document - which do not necessarily correspond to the legal concept the user is looking for. The result is that a lot of useless information is churned out of the data base before that which is sought for is arrived at. Admittedly, the possibility to search by a combination of words or by strings of words or at times by whole sentences reduces the amount of useless information retrieved, but the question is whether such methods of search are always sufficiently effective. There is no doubt that they are cheaper than a more structured approach.

The method used to store and elaborate the material inserted in the data base clearly affect costs considerably. The more analysis that needs to be done, the greater the amount of work that needs to be put into the preparation of the material for processing, the greater the expense. This is particularly the case if one wants to ensure that the data base is always up to date. It is no doubt much simpler and far less expensive just to scan the material and to insert it in the data base more or less as it is. But does a data base with such a limited structure truly answer the needs of all its users? It is the firm belief of Unidroit that it does not.

Even if the specific needs of the different categories of users of the data base do not always coincide, data bases have to try to cater for all. They must therefore furnish sufficient data with respect to each category of information (texts of instruments, ratifications, reservations, case law, bibliographical references) to cover the needs of the different users. They must also present this data in a form which is easily accessible, and which permits the user to arrive at the information required in the least amount of time and with the least possible effort. It is without doubt possible to achieve these objectives by making use of the infinite possibilities offered by computers. These include having proper keyword indexes, linking the different categories of information so that access to one category can be obtained through another. The technology is there to make the data base into a reasoned data base and that is what should be done. In other words, the information should be analysed and classified in such a manner as to permit it to be arrived at as effectively and in as short a period of time as possible.

UNILAW, the proposed Unidroit data base, is intended to be an "intelligent" data base. It is in other words intended that the information should be retrievable by legal concept in addition to being accessible through more simple and obvious classifications such as the date of the decision or the name of the relevant court. The instruments will be analysed by experts in the field who will be responsible for the extrapolation of the relevant concepts for the instruments concerned and for their classification as key-words. Each document which is subsequently inserted into UNILAW will be analysed and classified in accordance with this concept-key-word system.

The creation of a data base clearly calls for a decision as to the subjects which it should cover. The intention is that in time, UNILAW will cover uniform law as a whole, including, but not necessarily limited to, the following areas:

- Acquisitions
- Agency
- Arbitration and Settlement of commercial disputes

- Banking Instruments
- Choice of law
- Communication
- Competition
- Cultural Property
- Distribution and Franchising Contracts
- Energy law
- Enforcement of foreign judgements and awards
- Environmental law and natural resources
- Factoring
- GATT/WTO
- Insolvency and bankruptcy
- Insurance
- Intellectual and Industrial Property
- International Financing
- International Sales and related Commercial Transactions
- International wills
- Investments
- Leasing
- Liability instruments
- Negotiable Instruments
- Security Interests
- Telecommunications law
- Transport

As it is not possible to start work on all these subjects at the same time, a selection of four subjects has been made to begin with. The initial priorities are proposed to be:

- Transport
- International Sales and Related Commercial Transactions
- Arbitration and other International Dispute Resolution

and

- Cultural Property.

At its 73rd session in March 1995 the Governing Council of the Institute was seized of the results of the surveys conducted by the Secretariat. The evidence collected by these surveys, as well as a mature reflection of Council members on the Institute and its role in a changing world, led the Council to accept that there was:

- considerable potential demand from States and their legal advisers, other international organisations, legal practitioners and academics for expeditious and efficient access to a high-quality source of uniform law;
- this demand could not be satisfactorily met from the Unidroit Library and other available hard copy and electronic sources;
- the Institute could usefully fulfil its statutory purposes through the provision of information regarding uniform law. It was a service to the international community that of all international organisations Unidroit was in the best position to render, and
- state of the art electronic information technology was now available or becoming available which would allow the Institute to continue better to discharge its uniform law co-ordination and information roles to the international community into the twenty-first century.

In accepting this new approach, the Governing Council of Unidroit stressed that for the purposes of the proposed data base "uniform law" should be understood in a broad sense, as including not only what is known as substantive law but also conflicts or private international law. Such an approach would be in conformity with the terms of reference of the Institute and would also permit Unidroit to offer the use of its data base to a larger number of outside users, including international organisations, judges and

arbitrators, practitioners, Government legal advisers, national legislators and universities. Unidroit, among all the relevant international organisations, is the only organisation which covers the whole of uniform law as opposed to only a specific part of it. It seemed natural and logical to the Governing Council for Unidroit to proceed with such a project and to enlist the aid of other relevant organisations that are interested in co-operating on the data base within their specific fields of competence. The meeting which opens today was convened to discuss the possibilities of such a co-operation.

Unidroit has always made it a policy to co-operate with other international organisations to the greatest extent possible, both universally and regionally. It is the intention of the Institute to intensify this co-operation in the future.

The UNILAW project is an instance where such a co-operation would be of benefit to all. The precise modalities of the co-operation can be worked out between Unidroit and the organisations concerned. Basically, what is envisaged is that in exchange for regular up-dating on the status of ratifications and reservations on the part of the other international organisations, done directly via computer-link, and in return for such expert advice as the organisations would be in a position to offer, Unidroit would provide the organisations with free access to the data base as a whole. Considering that experts would be in charge of the different subject-areas, this would in effect provide the international organisations with material they would otherwise be able to obtain only with difficulty, for example national case law on their conventions. Each section of UNILAW devoted to a particular subject-area would in effect be a co-operative venture between Unidroit, the relevant panel of experts and the organisations responsible for the international instruments concerned. This co-operation would be clearly acknowledged in UNILAW.

All too often in the past relations between international organisations have been strained or even tarnished by open competition. It is time to turn the tide. In the world of the end of the twentieth century there is no room for rivalry between international organisations. We have all been created to work for the welfare of the international community, each and every one of us has the promotion of peaceful relations between the nations, and between the citizens of the nations of the world, as the ultimate term of reference for our activities. It is up to us to do all we can to ensure that this objective is achieved. It is up to us to pool our resources and to work together, united in our endeavours for the benefit of mankind and the world we live in.

ANNEX II

PRESENTATION BY INGENIUM SOFTWARE LIMITED, CONSULTANTS FOR THE DEVELOPMENT OF THE UNILAW SYSTEM

UNILAW CONCEPT

PRESENTATION of Feb. 2, 1996

Ingenium Software Ltd, for UNIDROIT

Purpose of this presentation: RESULTS OF CONCEPT ANALYSIS OF UNILAW

(Slide 1, Title of presentation)

UNILAW: Concept Assessment

(Slide 2, Identification of Ingenium personnel attending

Presenting:	David Reynolds, Project Manager
Present:	Jon Roth, Director
	Bill Aenlle, Technical Systems Consultant

(Slide 3, UNILAW Consultation Project)

How is Ingenium participating in the UNILAW project at present?

Analysis of concept and recommendation of approach (presented at the Feb. 02 session)
Functional Analysis of User Requirements
System Specification
Budget

(Slide 4, UNILAW Concept, a three part presentation)

I. What distinguishes UNILAW
II. How UNILAW will be developed
III. Issues Relating to UNILAW

(Slide 5, I. What distinguishes UNILAW?)

(Slide 6, UNILAW objectives)

Collect, analyse, classify, and make available: instruments, case law, and bibliographical references)

(Slide 7, UNILAW offers...)

Authoritative and specialist sources of information
Analysis and elaboration by expert panels
Two working languages, English and French

(Slides 8, 9, Who will use UNILAW?)

International and domestic practitioners
Professional and trade organisations
Courts and arbitrators
Scholars and researchers
Intergovernmental and non-governmental organisations
National legislators and government departments

(Slide 10, What are the benefits to the user of UNILAW?)

Single point of reference for uniform law
Regularly updated information compiled under expert supervision
Access methods in sympathy with professionals working in international law
Availability of contributors for consultation
Wide availability using standard equipment

(Slide 11, 12, What are the benefits to the contributors to UNILAW?)

Single point of access to uniform law
Increased knowledge and understanding of the value of contributors' work
Improves rate of adoption of uniform instruments
Expanded distribution of contributed materials
Promotion of professional capacities
Potential for expansion of interchange with interested parties

(Slide 13, UNILAW concept summarised.)

Information comprehensive
Structured in sympathy with professional demand
Conveniently available
Fosters and enhances communications among communities of interest
Not commercial

(Slide 14, II. How UNILAW will be developed)

(Slides 15, 16, Development Strategy)

Focus closely on a few subject areas to develop to full utility
Initial development interval approximately 12 months
Subsequent development to add subject areas
Continuos upkeep of completed subject areas to maintain quality and remain currency
Joint effort between consultant and UNIDROIT expert panels in chosen subject areas

(Slide 17, III. Issues Relating to UNILAW)
(Slides 18, 19, Issues)

Will special or expensive equipment be required?

No, UNILAW will be PC based at the user's site. Software will be written using ordinary PC applications software packages to support presentation of data, control, and data communications. Specially manufactured equipment, newly created software systems, and custom electronic communications will not be involved. The investment in Information Technology will go towards the central systems of UNILAW and be on the part of UNIDROIT through a non profit service foundation.

Will there be costly software upgrades?

No, as software changes, it will be provided to users.

Can a Macintosh computer be used?

Most likely. This is a common practise. The Functional Analysis will take up this matter.

Will CD-ROM and hard copy services be available?

Yes, this is anticipated.

How will UNILAW be reached by electronic communications?

The System Specification will take up these matters. It is likely that one or more widely available electronic data services will be interested in offering suitable packages to manage communications and the attendant accounting. It is an important concept that whatever technology is chosen, it will be universal or nearly so, reliable, not exotic, and of low fixed and variable costs.

Will I be able to talk with someone if I have questions about using UNILAW?

Yes

Will users have accounts? Will charges apply?

UNILAW users may be practising lawyers, professional or trade associations, judges, arbitrators, scholars, legislators, or international organisations. This diversity indicates differences in the circumstances of obtaining information from UNILAW and making contributions to UNILAW. Probably, users will have individual arrangements with UNILAW as to payments due (if any), and the provision of expert knowledge, writings, and consultations that may be offered in place of money.

What of system security?

The usual protections (vernacular: “firewall”) apply to protect the central database against corruption. Contributions to the database will be made via a formal procedure featuring review, certification, and version control in the areas of both content and format. Protection against acquisition of data is not a concern, although there will be use by identification in order to aid in management - both accounting and planning.

How will expert consultations take place?

Consultations can be carried on by whatever means or combinations of means prove convenient. Combinations of electronic mail posted via UNILAW, ordinary e-mail, telephone, letter, exchange of diskettes, meetings, etc. might be employed, just as in everyday business practise.

Will UNILAW compete with bound volumes and journals or with CD-ROM and diskette based products?

No, each seems to have its place. Especially, bound volumes offer advantages in browsing and comfortable use that are difficult to implement electronically.

ANNEX III

MEETING OF INTERNATIONAL ORGANISATIONS ON THE PROPOSED CREATION OF A UNIDROIT DATA BANK ON UNIFORM LAW

ROME, 2 FEBRUARY 1996

LIST OF PARTICIPANTS

INTERGOVERNMENTAL ORGANISATIONS

INTERNATIONAL CENTRE FOR THE STUDY OF THE PRESERVATION AND THE RESTORATION OF CULTURAL PROPERTY	Mr Joseph MALLIET Executive Secretary International Centre for the Study of the Preservation and the Restoration of Cultural Property (ICCROM) Via di S. Michele 13 00153 ROME
INTERNATIONAL MARITIME ORGANIZATION	Mr Ahmed ADIB Director of the Conference Division International Maritime Organization (IMO) 4, Albert Embankment LONDON SE1 7SR
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UNIDROIT	Professor Luigi FERRARI BRAVO President Mr Alan ROSE President, Australian Law Reform Commission Member, Unidroit Governing Council *Chairman* Mr Malcolm EVANS Secretary-General Mr Walter RODINÒ Deputy Secretary-General Ms Lena PETERS *Research Officer in Charge*
INGENIUM SOFTWARE LIMITED	Mr Jon ROTH Director Mr David REYNOLDS Project Manager Mr Bill AENLLE Technical Systems Consultant

Return to “UNIDROIT Proceedings and Papers 1996: Contents”