

UNIDROIT 1999
A.G. (53) 10
(Original: English)

U N I D R O I T

INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW

GENERAL ASSEMBLY

53rd session

(Rome, 25 November 1999)

MINUTES

(prepared by the Secretariat)

Rome, December 1999

The session was opened at 9.40 a.m. by the PRESIDENT OF UNIDROIT, Mr Luigi Ferrari Bravo, who welcomed the participants, the list of which is annexed hereto as APPENDIX I. He stated that this was the last session he would attend as his term of office as President of UNIDROIT was coming to an end and the Italian Government could appoint a new President. He then proposed that His Excellency Mr Nehad Ibrahim Abdel Latif, Ambassador of the Arab Republic of Egypt in Italy, chair the session of the General Assembly.

The General Assembly endorsed the proposal by acclamation.

The CHAIRMAN stated that it was an honour for him to preside over the 53rd session of the General Assembly of UNIDROIT and expressed his appreciation for the confidence that had been placed in him.

After noting that a quorum existed, he invited the Assembly to proceed to consideration of the draft agenda before it.

Item 1 – Adoption of the agenda (A.G. (53) 1 rev.)

The General Assembly adopted the provisional agenda as prepared by the Secretariat (see APPENDIX II).

Item 2 – Statement regarding the Institute’s activity in 1999

The SECRETARY-GENERAL presented the customary report on the activity of the Institute during the year. He commenced by pointing out that there were four items of equal priority on the UNIDROIT Work Programme: the UNIDROIT Principles of International Commercial Contracts, the model law on franchising, transnational rules of civil procedure, and international interests in mobile equipment.

With respect to the UNIDROIT Principles of International Commercial Contracts he stated that the Working Group on the UNIDROIT Principles was preparing a second part to deal initially with agency and limitation of actions and eventually also assignment of contractual rights and duties, contracts for the benefit of third parties, set-off and waiver. The Working Group’s third session was scheduled to be held in Cairo in January 2000, to be followed immediately by two seminars, one on the UNIDROIT Principles and Arbitration at the Cairo Regional Centre for International Commercial Arbitration and the other on UNIDROIT’s activities organised by the Egyptian Government to whom he expressed the Institute’s gratitude for making it possible to open a window on the Arab and African World.

The Study Group on Franchising would be meeting in Rome in December to begin work on the preparation of a model law on franchising. The substantial amount of preparatory work had been made possible by electronic means of communication. Although this was a low-cost project, it did have, along with the other three items, priority.

He then stated that the joint UNIDROIT/American Law Institute (ALI) Working Group on Transnational Rules of Civil Procedure had been set up in 1999 and would meet for the first time in May 2000. The Working Group was composed of eight experts from all parts of the world, four of which had been chosen by UNIDROIT and four by the American Law

Institute (ALI), under the chairmanship of Professor Ferenc Mádl (Hungary), member of the Governing Council of UNIDROIT.

Turning to the draft Convention on International Interests in Mobile Equipment – the most important item on the international agenda as far as financing infrastructure projects was concerned - the Secretary-General recalled that this project had been initiated, and was being handled primarily, by UNIDROIT, but that the Institute was co-operating with the International Civil Aviation Organization (ICAO) with respect to security interests in aircraft. Notwithstanding the great progress made at the second joint UNIDROIT/ICAO session in Montreal in August/September, work had not been completed and a Drafting Committee was at present meeting to prepare the texts for the third joint session to be held in Rome in March 2000. Moreover, some problem areas regarding public international law had been identified which needed to be studied in more depth and he was grateful to the Government of South Africa for hosting the forthcoming meeting of the Public International Law Working Group in Johannesburg in December 1999.

With respect to future projects he expressed the hope that they would not have to develop at the usual pace and said he would try to convince member States to agree to accelerated procedures so as to take on board the very important programme on capital markets earlier than normal procedures would permit.

Lastly he recalled that he had informed the Assembly at its previous session of his intention to contact regional organisations with a view to identifying ways of co-operating with them in order to co-ordinate regional economic integration, accompanied by law-making, and international harmonisation and unification of private and commercial law. He had discussed the matter with the Commission of the European Union, MERCOSUR countries and the member States (Canada, Mexico and the United States of America) of the North American Free Trade Area (NAFTA), would initiate discussions with West African countries through the Organisation for the Harmonisation of Business Law in Africa (OHADA), which was deeply involved in the regional harmonisation of commercial law, and would continue discussions with the Economic Co-operation Organisation.

The CHAIRMAN announced that a meeting would be held on the first of December at the Embassy of the Arab Republic of Egypt in Italy to present the forthcoming events in Cairo to representatives of African and Arab States in a spirit of promoting co-operation. Moreover, referring to the Secretary-General's comments on the role of regional organisations, he pointed out that representatives of the League of Arab States would be present at the UNIDROIT events in Cairo.

The CHAIRMAN, on behalf of the Assembly as a whole, expressed his appreciation to the Secretary-General for his report on the activity of the Institute in 1999.

Item 3 – Final adjustments to the budget and approval of the accounts for the 1998 financial year (A.G. (53) 2 and Accounts 1998)

The DEPUTY SECRETARY-GENERAL stated that the budget for the 1998 financial year, approved by the General Assembly at its 51st session in 1997 and slightly modified by it in 1998, provided for expenditure of Lit. 3,304,000,000 to be met by receipts of Lit. 3,206,000,000 and an estimated surplus from 1997 of Lit. 98,000,000.

The accounts for the 1998 financial year indicated that receipts totalled Lit. 3,494,634,155 and expenditure amounted to Lit. 3,162,709,126, yielding a surplus of Lit. 331,925,029. That sum, plus the surplus of Lit. 61,645,000 carried over from the 1997 financial year, brought the total surplus standing to the Institute's credit at the close of the 1998 financial year to Lit. 393,570,767. This situation was due to exceptional circumstances. The Secretariat's efforts on the one hand and the co-operation of member States on the other had resulted in a substantial reduction in the arrears in contributions, which meant that receipts exceeded initial estimates by more than Lit. 276,000,000.

With respect to expenditure, a saving of over Lit. 141,000,000 had been made mainly under the chapters of the budget concerning salaries and social security charges. This saving had been made possible by the fact, among others, that the new Secretary-General had taken up his functions in September 1998.

The CHAIRMAN having noted that there were no observations from delegations on this agenda item, the General Assembly approved the final modifications to the 1998 budget and the accounts for that financial year.

Item 4 – Adjustments to the budget for the 1999 financial year (A.G. (53) 3)

The DEPUTY SECRETARY-GENERAL recalled that it was customary for the Secretariat to submit first to the Finance Committee and then to the General Assembly each autumn a paper indicating possible adjustments to the budget of the current year on the basis of the partial accounts available for the first six months of the financial year in question as well as any other modifications due to exceptional circumstances.

He pointed out that the Secretariat had proposed using the surplus of Lit. 393,570,767 standing to the Institute's credit at the close of the 1998 financial year, first of all, to improve the financial structure of the Institute and, secondly, to satisfy some requests made by the Governing Council at its 78th session in 1999.

He recalled that the Institute's Working Capital Fund, which had been created to meet any cash flow problems that might arise on account of late payment by member States of their contributions or their failure to pay them, should, in conformity with a decision taken by the General Assembly, amount to one month's ordinary expenditure of the Institute.

The Accounts for 1998 indicated that the Working Capital Fund amounted to Lit. 290,000,000, a sum corresponding to approximately 1/12 of the Institute's annual ordinary expenditure. However, this sum was insufficient to meet any sudden cash flow problems, especially since arrears had been reduced to less than Lit. 130,000,000. In the past the Institute had been able to count not only on the Working Capital Fund but also on the payment of a substantial amount of the arrears.

Therefore the Secretariat had proposed increasing the amount in the Working Capital Fund to the equivalent of two month's expenditure, i.e. Lit. 556,000,000, by allocating Lit. 256,000,000 to Chapter 13, article 1 (Working Capital Fund) of the 1999 budget.

Moreover, he pointed out that the Reserve Fund for retirement allowances for Categories B and C staff, which stood at Lit. 80,670,000, should be increased to permit the

Institute to meet its obligations. The Secretariat had therefore proposed an increase of Lit. 40,000,000 under Chapter 8, article 2 of the 1999 budget. Should the General Assembly approve this proposal the Fund would not require any additional financing in the future.

Having outlined these two proposals, both of which adhered to a policy of reinforcing the weak financial structure of the Institute, the Deputy Secretary-General referred to two additional proposals concerning adjustments to the 1999 budget involving the use of the surplus carried over from 1998.

The Governing Council, had, at its last session, approved a resolution requesting the General Assembly to authorise the necessary increase in the budget to enable the necessary urgent action to be taken in respect primarily of the improvement of the health and safety features of the Institute's facilities and also of the rebuilding of the Library's stocks.

With respect to the first request, the Secretariat had considered it necessary to seek the opinion of an expert in order to assess the present state of the facilities, any possible shortcomings thereof and omissions and to propose solutions suitable to bringing the working conditions of the UNIDROIT staff up to Italian health and safety standards. The expert's report had been reproduced in document A.G. (53) 7 (Item 8a on the Agenda). In the light of that report the Secretariat proposed to spend Lit. 37,600,000 (see document A.G. (53) 7) for the improvement of the Institute's facilities by allocating an additional Lit. 25,000,000 to Chapter 7, article 5 (Office equipment) of the 1999 budget and spending Lit. 12,600,000 already allocated in the 2000 budget.

With respect to the second request, the Secretariat proposed to increase Chapter 9, article 1 (Library - Purchase of books) of the 1999 budget by Lit. 9,570,000.

He pointed out that if the General Assembly were to approve these proposals, a surplus of Lit. 63,000,000 would stand to the Institute's credit at the end of the 1999 financial year and be carried over to the 2000 financial year in order to maintain member States' contributions in the year 2000 at the same level as those paid in 1999.

In the light of the foregoing the General Assembly approved the adjustments to the budget proposed by the Secretariat.

Item 5 – Arrears in contributions of member States (A.G. (53) 4)

The DEPUTY SECRETARY-GENERAL stated that a document indicating the state of arrears as at 24 November 1999 had been distributed that very morning. It showed that total outstanding contributions of member States amounted to Lit. 491,310,000. Outstanding contributions amounted to Lit. 362,000,000 for 1999 and less than Lit.130,000,000 for previous years.

Considering that member States had been assessed contributions for 1999 amounting to Lit. 3,214,560,000, only 11.26% of all contributions remained outstanding. He warmly thanked the Governments of member States for having brought the arrears down.

Moreover he invited the representatives of those Governments that had not yet settled their contributions to urge their authorities to do so in order to avoid the accumulation of

arrears as the Secretariat, while making every possible effort to adhere strictly to the nominal zero growth policy, needed capital in order to implement the heavy Work Programme approved by the organs of the Institute.

In conclusion he pointed out that in 1999 the Government of Spain had ratified the amendment to Article 20 of the Statute, thereby bringing the total number of ratifications to 25.

The General Assembly took note with satisfaction of the current situation with respect to payments of contributions and arrears.

Item 6 – Classification of member States in the contributions chart (A.G. (53) 5)

In introducing this item on the agenda the DEPUTY SECRETARY-GENERAL recalled that when the General Assembly had decided to re-classify some member States in the UNIDROIT Contributions Chart in order to harmonise it with that of the United Nations, South Africa had remained classified in Category V (11 units of contribution) instead of being re-classified, on the basis of its percentage contribution to the budget of the United Nations, in a lower category of the UNIDROIT Contributions Chart

On 17 September 1999 the authorities of South Africa informed the Institute in a Note Verbale that, while greatly valuing the work of UNIDROIT, they had decided to make an annual contribution to the UNIDROIT budget corresponding to 9 units of contribution (Category VI) instead of 11 (Category V).

He pointed out that the Finance Committee, at its meeting on 5 October 1999, had considered South Africa's request well founded and had recommended the General Assembly to accept South Africa's request for re-classification in Category VI as of the year 2000.

The CHAIRMAN noted that no objections had been raised with respect to the Secretariat's proposal and therefore confirmed the consensus of the General Assembly on this item.

It was so decided.

Item 7 - Approval of the draft budget for 2000 and fixing of the contributions of member States for that financial year (A.G. (53) 6)

In introducing this item on the agenda the DEPUTY SECRETARY-GENERAL recalled that, in conformity with Article 31 of the Regulations of the Institute, the Secretariat had prepared a first set of estimates of expenditure for the 2000 financial year for consideration by the Governing Council at its 78th session in April 1999. Subsequently the draft budget for 2000 had been submitted to the Sub-committee of the Finance Committee for consideration and then to the Finance Committee. On 7 October 1999 the Finance Committee had examined the Secretariat's proposals, expressed its appreciation for the strict adherence to the zero growth policy evident in the draft budget for 2000 and decided to recommend it to the General Assembly for approval.

He stated that the draft budget for 2000 made provision for a surplus of Lit. 63,000,000 carried over from the 1999 financial year and that member States' contributions had remained unchanged with respect to the budget for 1999.

He also pointed out that estimated receipts under Chapter 2 (Other receipts) of the draft budget for 2000 were lower than those in the budget for 1999 on account of reduced interest rates and an expected drop in sales of UNIDROIT publications after the success of the UNIDROIT Principles of International Commercial Contracts.

Following the General Assembly's decision to grant South Africa's request for downward re-classification in the UNIDROIT contributions chart, total assessed contributions would be decreased by Lit. 8,120,000 in the year 2000. This loss might be compensated by a small increase in receipts from the sale of UNIDROIT publications as sales in recent months were on the rise as a result of an improved distribution policy for the Uniform Law Review.

For this reason the Secretariat had proposed to compensate the loss of Lit. 8,120,000 under Chapter 1 article 2 (Contributions of member States other than Italy) by a corresponding increase in receipts under Chapter 2 article 3 (Sale of publications) by changing the figures indicated in the draft budget distributed prior to the meeting of the General Assembly.

In conclusion, total estimated receipts in 2000 equalled receipts in 1999.

The Deputy Secretary-General stated that estimated expenditure in the year 2000 was unvaried with respect to expenditure in 1999. The only change proposed in the draft budget for 2000 was one of presentation. Chapter 2 (Salaries and allowances) had in previous budgets been composed of three articles. In the draft budget for 2000 it contained only two articles as articles 1 and 2 had been merged. Total estimated expenditure under Chapter 2 was the same as expenditure in 1999.

Expenditure under Chapter 1, articles 5 (Committees of experts) and 6 (Official journeys of representatives, members of staff and collaborators) of the draft budget for 2000 may have been underestimated. The work in progress on international interests in mobile equipment and other subjects on the Work Programme approved by the General Assembly indicated that the number of meetings and official journeys was bound to rise. While the Secretariat would do its best to keep costs within budgetary estimates, it hoped to be able in the future to count on a change in the attitude of Governments with respect to the nominal zero growth policy.

He stated that the Secretariat would continue to request an adjustment in the contributions of some member States (Brazil, Iran and Spain) and seek extra-budgetary resources.

In this connection he thanked, on behalf of the Institute, the Governments of Finland, of France and of the Republic of Korea for their support of the research scholarships programme; the Government of France for having put at the disposal of the Institute a *coopérant*; and the Government of Italy for its support of the Library. Similar donations had been received in 1999, in particular from the Government of Germany which, through its National Research Centre (Deutsche Forschungsgemeinschaft), had made a very generous donation of German books to the Library.

The representative of the UNITED STATES OF AMERICA stated that she had no objection to the budget and had asked for the floor mainly to commend the Institute for its adherence to the zero nominal growth policy and that her Government was pleased to support this budget level. As a member of the Finance Committee, the United States of America had had the opportunity to express its opinion on the budget for 2000 and also on the adjustments to the budget for 1999. Upon further reflection her Government had some additional comments on the adjustments, but had no desire to block a consensus or take up the time of the General Assembly with those comments. She would therefore submit those comments in writing to the Secretariat, specifically with regard to the intervention of the representative of Germany at the Finance Committee meeting on the issue of returning surplus amounts to the members.

The representative of GERMANY stated that his Government's position with respect to all international organisations was that any surplus had to be returned to the member States. He could see the problems involved in a relatively small budget, congratulated the Secretariat on its efforts to reach zero nominal growth, but stated that it would set a bad example to other international organisations if he did not ask for the surplus be returned to the member States.

The representative of IRAN, referring to the Secretariat's proposal to adjust, in the year 2000, the assessed contributions of those member States that had not been able, when the General Assembly had approved a revision of the UNIDROIT contributions chart in 1998, to adjust their contributions in order to harmonise the entire UNIDROIT contributions chart with the United Nations contributions chart (A.G. (53) 6, para. 9), recalled that the Iranian authorities had discussed with the Secretariat of UNIDROIT the matter of upward re-classification of Iran from Category VIII to Category VII. He recalled that UNIDROIT Member States were assessed on the basis of their percentage contributions to the budget of the United Nations and that Iran's percentage contribution to the budget of the United Nations, which had already been reduced from 0.39% to 0.16%, was expected to be reduced in the year 2000 to 0.13%. It was expected that this trend would continue for at least another two or three years. In view of this situation he considered advisable to postpone re-classification of Iran in the UNIDROIT contribution chart, at least for the time being and wait until 2000 to see what Iran's position in the United Nations contributions chart would be. Only then would the Secretariat and Iran be in a position to decide whether Iran should be classified in Category VII or VIII. He assured the Assembly however that in any case the Government of Iran would support the work of the Institute.

The representative of Iran also informed the Assembly that his Government's contribution to the 1999 budget was being discussed in the Iranian Parliament. He assumed that once discussions were concluded Iran could pay its annual membership dues.

The DEPUTY SECRETARY-GENERAL commented that he was aware of Iran's position in the United Nations contributions chart and that the matter of the re-classification of Iran in the UNIDROIT contributions chart could be taken up again by the Finance Committee in the year 2000.

The CHAIRMAN having found that there were no other comments on this agenda item, and registering the statements made by the representatives of the United States of America, of Germany and of Iran, he inquired whether the General Assembly was prepared to adopt the budget and the contributions chart for 2000 as set out in document A.G. (53) 6.

It was so decided.

Item 8 - Other business

a) Working conditions at UNIDROIT (A.G. (53) 7)

The DEPUTY SECRETARY-GENERAL stated that the question of the health and safety features of the facilities at the disposal of the UNIDROIT staff had been discussed by the Governing Council at its 78th session the previous April, at which time the Council, recalling the potential liability of the Secretary-General and of the Institute in general for injuries suffered on account of inadequate or faulty conditions of health and security of the facilities, had adopted Resolution (78) 1.

The Secretariat had then asked an architect to inspect the offices in Palazzo Aldobrandini and to report on the working conditions in the light of Italian law n. 626 of 1994 establishing minimum standards. His report indicated that the situation was not as serious as supposed and estimated expenditure for the necessary light fixtures and furniture at Lit. 12,600,000.

However, as the offices were extremely hot in summer, the Secretariat had proposed spending Lit. 25,000,000 on individual air conditioners as an air conditioning system could not be installed on account of the great expense that would be involved and the antiquity of the building.

The matter had been discussed by the Finance Committee which agreed on the Secretariat's proposal.

The representative of THE NETHERLANDS stated that it was a good idea to improve working conditions at UNIDROIT and had no observations to make with respect to the proposed expenditure for furniture. She did however question the proposed expenditure for air conditioners and wondered whether the increased cost of electricity once air conditioners were running had been taken into consideration.

The DEPUTY SECRETARY-GENERAL pointed out that an increase in electricity costs would be offset by the saving made with respect to the value added tax the Institute was no longer obliged to pay.

The CHAIRMAN noted that no objections had been raised with respect to the Secretariat's proposal and therefore confirmed the consensus of the General Assembly on this item.

It was so decided.

b) Depository Libraries for UNIDROIT Documentation (A.G. (53) 8)

The DEPUTY SECRETARY-GENERAL recalled that in 1997 the Secretariat had requested the Assembly's authorisation to use certain funds available in the budget to computerise the library's catalogue and some of the Institute's activities. He informed the Assembly that the Library had been computerised and that all the computers in the Institute were linked on a local area network (LAN).

Part of this innovative process was the creation and development of the UNIDROIT Web site which, since its creation in 1996, had been visited by over 50,000 Internet navigators from all parts of the world. Moreover the many links to the UNIDROIT site on other web sites and web directories meant that contacts had been established with UNIDROIT world-wide.

Moreover, he noted that, with a view to making the documents issued by the Institute more readily available in its member States, the annual collection of documents contained in the UNIDROIT Proceedings and Papers series (reports prepared by the Secretariat for submission to the Governing Council of UNIDROIT, the studies and reports of the various working groups on items on the UNIDROIT Work Programme and the minutes of the annual sessions of the General Assembly) had, since 1997, been made available on CD-ROM and donated, along with the Uniform Law Review (new series), to depository libraries for UNIDROIT documentation in member States. The UNIDROIT Web site and UNIDROIT Proceedings and Papers together provided a complete source of documentation and basic information on UNIDROIT, its achievements and current activities.

He noted that 24 of the 53 active member States had designated one or two libraries in their respective countries and invited the representatives of those member States which had not yet designated a depository library in their home country to encourage their authorities to do so.

The CHAIRMAN complimented the Secretariat on the excellent work done and appealed to those member States which had not yet designated a depository library to do so.

*c) Bolivia's request to regularise its position with respect to UNIDROIT
(A.G. (53) 9)*

The DEPUTY SECRETARY-GENERAL recalled that the Embassy of Bolivia in Rome had expressed the intention of its Government to renew concrete links with UNIDROIT. Indeed, Bolivia had been a member of the Institute since 1940, but had never participated in the work of the Institute nor paid its contributions since payment of contributions became compulsory in 1964.

If Bolivia were to be asked to pay its arrears, it would have to pay more than Lit. 200,000,000, a very large sum.

Therefore the Secretariat had made a proposal to the Bolivian authorities whereby Bolivia would pay a sum equivalent to five years of contributions of a State classified in Category VIII (5 units of contribution per year). Bolivia had rejected this proposal and submitted a compromise counter-proposal whereby it would pay three years' contributions of a State classified in the Special Category (1 unit of contribution per year).

This compromise proposal had been examined by the Sub-committee of the Finance Committee at its meeting on 4 June 1999 in the presence of a delegation from the Embassy of Bolivia.

The Sub-committee, after a long thoughtful discussion and taking into account the keen interest shown by the Bolivian authorities to renew concrete links with the Institute, had stressed its willingness to find an adequate solution to the regularisation of Bolivia's position among the member States of UNIDROIT. It had requested the Secretariat to prepare a document

to be submitted to the Finance Committee containing a specific proposal with respect to Bolivia that would be justifiable however vis-à-vis all member States.

In order to avoid creating an embarrassing precedent, and taking into account Bolivia's will to become an active participant, the Secretariat had made a new proposal, subject to the approval of the General Assembly, to the representative of Bolivia prior to the meeting of the Finance Committee on 5 October 1999. Under the terms of this proposal Bolivia would be classified in Category VIII of the UNIDROIT contributions chart and would commence payment of its annual contribution as of the year 2000. Member States whose contributions to the United Nations budget ranged from 0.005% to 0.114% should be classified in Category VIII of the UNIDROIT contributions chart as approved by the General Assembly at its 52nd session held in Rome on 27 November 1998. Therefore Bolivia, whose percentage contribution to the United Nations budget was 0.007%, should be classified in Category VIII.

Only on 19 November 1999 was the Embassy of Bolivia in a position to communicate to UNIDROIT that the Bolivian authorities in La Paz had accepted this proposal and had agreed to pay the contribution due for the year 2000 as well as a sum corresponding to one quarter of that contribution into the Working Capital Fund.

The Deputy Secretary-General felt that if the General Assembly were to agree to this compromise solution Bolivia could be considered as having been a passive participant in the past but an active member of the Institute as of the year 2000. Moreover, this compromise solution would constitute a precedent with respect to only two other member States of UNIDROIT: Nicaragua and Paraguay.

Finally he pointed out that when States had been invited to accede to the UNIDROIT Statute in 1940, within just two months, 26 Governments had decided to become members of the Institute. This response had evidently been due to the fact that accession did not bring with it any financial obligation. The Government of Italy covered all the Institute's expenses. In 1964 an amendment to Article 16 of the Statute entered into force whereby payment of membership dues became mandatory. The Governments of Bolivia, Nicaragua and Paraguay never ratified that amendment. He felt that, in the light of the history of the UNIDROIT Statute, the situation with respect to membership in UNIDROIT was not comparable to that in other international organisations.

The representative of GERMANY appreciated Bolivia's decision to resume active membership in the Institute. He had also heeded the Deputy Secretary-General's statement that acceptance of Bolivia as proposed would set a precedent with respect only to Nicaragua and Paraguay. However he thought that acceptance on the proposed terms would set a precedent also with respect to other international organisations. According to the rules of international organisations such as UNESCO and UNIDO, all members without exception were required to pay their dues, even in instalments if necessary. He suggested that the Secretary-General and the Deputy Secretary-General resume negotiations with Bolivia in order to identify a mode of payment by Bolivia of its arrears.

The representative of the UNITED STATES OF AMERICA understood the German Government's concern about setting a precedent with respect to other international organisations and stated that it was a matter not to be taken lightly. At the same time she wondered whether Bolivia could become an active member, on condition that it pay its contribution for 2000, as it apparently wished to do, while at the same being carried on the

UNIDROIT contributions chart as a State whose contributions were in arrears. Bolivia may not wish to be listed in that way as the amount due was large. But at the same time, in the spirit of welcoming, in particular Latin American countries, to the Institute and encouraging them to take part, it seemed that some compromise might be possible whereby Bolivia could start paying its contributions as of 2000, actively participate and yet still be listed, as indeed it already was, in serious arrears. Such a compromise solution would not constitute a precedent because Bolivia would in theory still owe the money, although it was unlikely that it would ever be able to pay 35 years' worth of arrears, and would avoid setting a dangerous precedent with respect to international organisations.

The representative of TUNISIA welcomed Bolivia's request to join again the UNIDROIT family. He too feared that acceptance of the Secretariat's proposal would constitute a very important precedent. Moreover he asked the Secretariat to clarify the difference between active and passive membership.

The representative of SWITZERLAND, while happy to hear that Bolivia wished to participate actively in UNIDROIT's work, hoped that this would be made possible in an acceptable manner. She warned against creating a precedent that might create more problems. She felt that the Deputy Secretary-General had provided the Assembly with some important information that had not appeared in document A.G. (53) 9, namely that contributions had only become mandatory in 1964 and wondered whether this was not a different situation than that of other international organisations. She wondered whether Bolivia could really be considered as having joined UNIDROIT for the second time in the 1960s when contributions became mandatory. She felt it would be difficult to claim payment of arrears accumulated since then.

The DEPUTY SECRETARY-GENERAL suggested that the General Assembly might consider accepting Bolivia as a new member on the ground that the Institute was today a different organisation than it had been in 1940 when Bolivia acceded to the Statute. This could not constitute a precedent with respect to other international organisations and would set a precedent within UNIDROIT only with respect to Nicaragua and Paraguay. Moreover Nicaragua and Paraguay would automatically lose their membership if the amendment to Article 20 came into force before they have regularised their respective positions.

The representative of MALTA shared the concerns expressed by the representatives of Germany and of the United States of America. Recalling the observations made by the representative of Tunisia, he felt that the introduction of the notion that a member State could choose to be active or passive at will within an organisation created an extremely dangerous precedent. He felt that the suggestion made by the representative of the United States of America of carrying Bolivia on the UNIDROIT contributions chart as being in arrears to be a valid one. As a compromise he suggested requesting Bolivia to make a symbolic payment for the past that would in effect be payment of arrears. This would be a way of acknowledging that Bolivia was paying something. The situation could come under review subsequently, for example, within five years' time. This would make it possible to activate Bolivia's membership without compromising any principle, particularly with respect to the type of membership.

The CHAIRMAN stated that, on the basis of the observations made by the representatives of Germany, the United States of America, Malta and Tunisia, it appeared that

Bolivia's request was acceptable but that an appropriate formulation still had to be found and asked the Deputy Secretary-General to make a proposal to the Assembly.

The DEPUTY SECRETARY-GENERAL proposed accepting the proposal made by the representative of Malta and discussing the problem of Bolivia's arrears in the Finance Committee and suggested that settlement of its arrears could take the form of a symbolic payment in cash or in kind.

The representative of the UNITED STATES OF AMERICA supported the idea of referring the details of the matter to the Finance Committee, but thought it preferable for the General Assembly to express an opinion, although not necessarily in a formal resolution, specifically indicating Bolivia and possibly the other two countries, the only member States having joined in 1940 but never having contributed or participated since 1964 when contributions became mandatory.

The representative of AUSTRIA supported the proposal made by the representative of the United States of America and warned against referring to concepts of dormant and active membership.

The representative of SWITZERLAND also supported the proposal made by the representative of the United States of America but insisted on the advisability of requiring Bolivia to make a symbolic payment of its arrears.

The representative of COLOMBIA supported the proposal of the representative of the United States of America.

The DEPUTY SECRETARY-GENERAL asked for the Assembly's authorisation to prepare a note summarising the positions expressed by the various representatives present, on the assumption that the Assembly was favourable to the reinstatement of Bolivia among member States as of the year 2000 and that its arrears could be settled by a symbolic payment in cash or in kind.

The CHAIRMAN, on behalf of the General Assembly, expressed confidence in the Secretariat and requested the Secretariat to prepare a note summarising the positions expressed during the session, it having been agreed in principle to accept Bolivia's request and to formulate the conditions for acceptance.

It was so decided.

*
* *

After noting that no other matters were raised under this agenda item, the CHAIRMAN expressed his appreciation to the representatives for their co-operation and to the President of the Institute, the Secretary-General, the Deputy Secretary-General for their preparation of, and contribution to, the session.

The CHAIRMAN declared the 53rd session of the General Assembly closed at 13.30 a.m.

NOTE ON THE MATTER OF THE REGULARISATION
OF THE SITUATION OF BOLIVIA WITH RESPECT TO UNIDROIT
IN CONFORMITY WITH THE DECISIONS TAKEN DURING
THE 53RD SESSION OF THE GENERAL ASSEMBLY
(Rome, 25 November 1999)

Bearing in mind that, of the 58 member States of UNIDROIT, three – Bolivia, Nicaragua and Paraguay – acceded to the Statute in 1940 but never took an active part in the Institute's activities;

that from 1940 to 1963, member States were under no obligation to make a contribution in money in order to participate in UNIDROIT, such an obligation being mandatory as of 1 January 1964;

that the Governments of the above-mentioned member States never took part in the Institute's decisions which are expressed by its General Assembly;

that the first General Assembly of the Institute met in 1951 and that on that occasion a resolution was adopted inviting member States to pay voluntary contributions to UNIDROIT which had until then been entirely financed by the Government of Italy;

it follows that the participation of Bolivia, Nicaragua and Paraguay in the life of the Institute must be considered as having been totally passive; that Bolivia's request to begin paying its annual contributions but not to be accountable for its accumulated arrears – a request the other two member States could make in the future - can in no way constitute a precedent with respect to the other member States of UNIDROIT or to other international organisations. Indeed, UNIDROIT's situation is very particular one on account of its constitution and its development as an international organisation following the adoption of the Statute in 1940 as well as subsequent amendments to the Statute and the Headquarters Agreement concluded between the Institute and the Italian Government.

Consequently, Bolivia's request to begin paying its annual contribution as of 1 January 2000 and to be classified in Category VIII of the Institute's contributions chart can be understood to imply Bolivia's acceptance, as of 1 January 2000, of amended Article 16 of the Statute which came into force in 1964 requiring all member States to contribute to the Institute's budget.

In order to prevent acceptance of Bolivia's request from constituting a precedent with respect to member States other than the two States in a similar situation, it emerged during discussions in the General Assembly at its 53rd session that, not only on the grounds of the way in which the Statute had been created and had evolved, it would be wise not to cancel the arrears accumulated by Bolivia since 1964 but to consider them settled once a symbolic payment in money or in kind has been agreed and made. To this end the Secretariat of UNIDROIT, after consulting the Finance Committee, could determine, in accordance with the representatives of Bolivia, the method of the above-mentioned symbolic payment.

The decision taken with respect to Bolivia could only apply in a similar fashion to Nicaragua and Paraguay should the Governments of those two countries decide to regularise their situation with respect to UNIDROIT.

APPENDIX I
ANNEXE I

LIST OF PARTICIPANTS/LISTE DES PARTICIPANTS

<i>ARGENTINA/ARGENTINE</i>	Ms Mercedes PARODI, First Secretary Embassy of Argentina to Italy
<i>AUSTRALIA/AUSTRALIE</i>	Ms Lucy BLANDA, Attaché, Political Affairs Embassy of Australia to Italy
<i>AUSTRIA/AUTRICHE</i>	Mr Klaus FAMIRA, Second Secretary Embassy of Austria to Italy
<i>BELGIUM/BELGIQUE</i>	Ms Isabelle MEERT, Minister Counsellor Embassy of Belgium to Italy
<i>BOLIVIA/BOLIVIE</i>	Ms Claudia BETANCOURT, Second Secretary Embassy of Bolivia to Italy
<i>BRAZIL/BRESIL</i>	Mr Ricardo Luís Pires RIBEIRO DA SILVA, First Secretary, Embassy of Brazil to Italy
<i>BULGARIA/BULGARIE</i>	Mr Kostadin KODJABACHEV, Counsellor Embassy of Bulgaria to Italy
<i>CANADA</i>	Mr Gilbert LAURIN, Counsellor Embassy of Canada to Italy
<i>CHILE/CHILI</i>	Mr Mauricio UGALDE, Counsellor Mr Jaime CHOMALI, Second Secretary Embassy of Chile to Italy
<i>CHINA/CHINE</i>	Ms JIN Hong, Second Secretary Embassy of China to Italy
<i>COLOMBIA/COLOMBIE</i>	Mr Juan Carlos ESPINOSA, First Secretary Embassy of Colombia to Italy
<i>CROATIA/CROATIE</i>	Mr Branimir ČEČUK, First Secretary Embassy of Croatia to Italy
<i>CUBA</i>	Excused/ <i>excusé</i>
<i>CYPRUS/CHYPRE</i>	Mr Petros NACOUZIS, Second Secretary Embassy of Cyprus to Italy
<i>CZECH REPUBLIC/REPUBLIQUE TCHEQUE</i>	Ms Marcela LOUDOVA, Assistant of Counsel Embassy of Czech Republic to Italy

DENMARK/ <i>DANEMARK</i>	excused/ <i>excusé</i>
EGYPT/ <i>EGYPTE</i>	H.E. Mr Nehad Abdel LATIF, Ambassador of Egypt to Italy Mr Khaled HESHMAT, Third Secretary Embassy of Egypt to Italy
FINLAND/ <i>FINLANDE</i>	Mr Seija TORO, Counsellor Embassy of Finland to Italy
FRANCE	Mr Patrice BERGAMINI, First Secretary Embassy of France to Italy
GERMANY/ <i>ALLEMAGNE</i>	Mr Wolfgang GAERTE, Counsellor Embassy of Germany to Italy
GREECE/ <i>GRECE</i>	Mr Georges PAPODOPOULOS, First Secretary Embassy of Greece to Italy
HOLY SEE/ <i>SAINT SIEGE</i>	excused/ <i>excusé</i>
HUNGARY/ <i>HONGRIE</i>	Mr Péter SZÖKE, Second Secretary Embassy of Hungary to Italy
INDIA/ <i>INDE</i>	excused/ <i>excusé</i>
IRAN	Mr Hamid NAZARI, Minister Counsellor Mr Mohammad EMAD, Second Secretary Embassy of Iran to Italy
IRAQ/ <i>IRAK</i>	Excused/ <i>excusé</i>
IRELAND/ <i>IRLANDE</i>	Ms Julie CONNELL, Third Secretary Embassy of Ireland to Italy
ISRAEL	Mr Noam KATZ, First Secretary Embassy of Israel to Italy
ITALY/ <i>ITALIE</i>	Mr Umberto LEANZA, Head of the “Contenzioso Diplomatico” Ministry of Foreign Affairs
JAPAN/ <i>JAPON</i>	Mr Shoichi NAKANO, First Secretary Embassy of Japan to Italy
LUXEMBOURG	His Excellency Mr Paul FABER Ambassador of Luxembourg to Italy
MALTA/ <i>MALTE</i>	H.E. Mr Joseph CASSAR Ambassador of Malta to Italy
MEXICO/ <i>MEXIQUE</i>	excused/ <i>excusé</i>

NETHERLANDS/ <i>PAYS-BAS</i>	Ms Astrid DE VRIES, Second Secretary Embassy of the Netherlands to Italy
NICARAGUA	excused/ <i>excusé</i>
NIGERIA	Mr Emmanuel O. ONWUKEME, Senior Counsellor, Embassy of Nigeria to Italy
NORWAY/ <i>NORVEGE</i>	Ms Aud Lise NORHEIM, Minister Counsellor Embassy of Norway to Italy
PAKISTAN	Mr Athan MAHMOOD, Minister Plenipotentiary Embassy of Pakistan to Italy
PARAGUAY	Excused/ <i>excusé</i>
POLAND/ <i>POLOGNE</i>	Ms Jolanda JANEK, First Secretary Embassy of Poland to Italy
PORTUGAL	Ms Claudia BOESCH, First Secretary Embassy of Portugal to Italy
REPUBLIC OF KOREA/ <i>REPUBLIQUE DE COREE</i>	Mr Dae Hyun KANG, Counsellor Embassy of the Republic of Korea to Italy
ROMANIA/ <i>ROUMANIE</i>	Mr Ramiro DONCIU, First Secretary Embassy of Romania to Italy
RUSSIAN FEDERATION/ <i>FEDERATION DE RUSSIE</i>	Mr Vitaly CHIZHIKOV, Legal Consultant Trade Representation of the Russian Federation to Italy
SAN MARINO/ <i>SAINT-MARIN</i>	Mr Victor CRESCENZI, Professor
SLOVAKIA/ <i>SLOVAQUIE</i>	Mr Lúbomir RYBÁR, Department of Law, Ministry of Foreign Affairs, Bratislava Ms Jana SCHOSTOKOVA, Third Secretary Embassy of Slovakia to Italy
SLOVENIA/ <i>SLOVENIE</i>	Ms Eliska KERSNIC, Third Secretary Embassy of Slovenia to Italy
SOUTH AFRICA/ <i>AFRIQUE DU SUD</i>	Mr Edward MAKAYA, Second Secretary Embassy of South Africa to Italy
SPAIN/ <i>ESPAGNE</i>	Ms Maria Victoria SCOLA, First Secretary Embassy of Spain to Italy
SWEDEN/ <i>SUEDE</i>	Ms Viktoria FLODH, First Secretary Embassy of Sweden to Italy
SWITZERLAND/ <i>SUISSE</i>	Ms Ingrid APELBAUM, Minister

TUNISIA/ <i>TUNISIE</i>	Embassy of Switzerland to Italy Mr Mahjoub LAMTI, Counsellor Embassy of Tunisia to Italy
TURKEY/ <i>TURQUIE</i>	excused/ <i>excusé</i>
UNITED KINGDOM/ <i>ROYAUME-UNI</i>	Mr Niall J.D. CULLENS, Third Secretary Embassy of the United Kingdom to Italy
UNITED STATES OF AMERICA/ <i>ETATS-UNIS D'AMERIQUE</i>	Ms Vonda KIMBLE DELAWIE, Deputy Permanent Representative United States Mission to the United Nations Agencies for Food and Agriculture
URUGUAY	Ms Adriana LISSIDINI, First Secretary Embassy of Uruguay to Italy
VENEZUELA	excused/ <i>excusé</i>

OBSERVER/*OBSERVATEUR*

SOVEREIGN MILITARY ORDER OF MALTA/
*ORDRE SOUVERAIN MILITAIRE
DE MALTE*

His Excellency Marquis Aldo PEZZANA
CAPRANICA DEL GRILLO, Ambassador

UNIDROIT

Mr Luigi FERRARI BRAVO, President/*Président*
Mr Herbert KRONKE, Secretary-General/*Secrétaire-Général*
Mr Walter RODINO', Deputy Secretary-General/*Secrétaire Général adjoint*
Ms Paula HOWARTH, Translator/Drafter / *Traducteur/Rédacteur*
Mr Paolo AVERSA, Treasurer / *Trésorier*

APPENDIX II

DRAFT AGENDA

1. Adoption of the draft agenda (A.G. (53) 1)
2. Statement regarding the Institute's activity in 1999
3. Final adjustments to the budget and approval of the accounts for 1998 financial year (A.G. (53) 2 and Accounts 1998)
4. Adjustments to the budget for the 1999 financial year (A.G. (53) 3)
5. Arrears in contributions of member States (A.G. (53) 4)
6. Classification of States in contributions chart of the Institute (A.G. (53) 5)
7. Approval of the draft budget for 2000 and fixing of the contributions of member States for that financial year (A.G. (53) 6)
8. Other business
 - a) Working conditions at UNIDROIT. Ergonomic aspects and their financial implications (A.G. (53) 7)
 - b) Depository libraries for UNIDROIT documentation (A.G. (53) 8)
 - c) Bolivia's request to regularise its position with respect to UNIDROIT (A.G. (53) 9)