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A.G. (55) 9
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U N I D R O I T

INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW
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GENERAL ASSEMBLY

55th session

(Rome, 7 December 2001)

REPORT

(prepared by the Secretariat)

Rome, December 2001

I. INTRODUCTION

Opening of the session and election of the Chairman

The 55th session of the General Assembly was held on 7 December 2001 at the seat of UNIDROIT. The meeting was opened by Mr B. Libonati, President of UNIDROIT, at 9.35 a.m.

The President welcomed the participants (cf. List of participants set out in APPENDIX I), and in particular the representatives of the two States that had acceded to the UNIDROIT Statute in the course of the year, the Republic of Estonia and the Federal Republic of Yugoslavia. He expressed his appreciation to the Governments of these States for their expression of confidence in the Institute. Informing participants of the successful conclusion reached by the diplomatic Conference for the adoption of the draft Convention on International Interests in Mobile Equipment and the draft Protocol thereto on Matters specific to Aircraft Equipment in Cape Town on 16 November 2001, he expressed the Institute's deep appreciation and heartfelt gratitude to the Government of South Africa for its generous hospitality and wonderful co-operation which had played such a key role in determining the success of the Conference. Recalling his commitment at the previous session of the General Assembly to take a personal hand in the Institute's negotiations with the Italian Government directed toward the revision of that Government's contribution to the Institute's budget, he noted that, while the economic situation was not ideal, it had nevertheless proved possible, in addition to the 7% increase in Italy's contributions to the Institute's budget for the years 2001-2003, to ascertain the willingness of the Italian financial authorities to consider favourably the revision of Article 16(1) of the Statute dealing with the contributions to the Institute of its member States in general but of Italy in particular. The effect of such a revision would be to increase the contribution of the Italian Government to UNIDROIT and at the same time to express that contribution as a defined percentage of the Institute's ordinary expenditure. The Institute would now be moving forward, in concert with the Italian Ministry of Foreign Affairs, to the concluding phase in these negotiations with the Italian financial authorities, following which the proposed modification of Article 16(1) would be submitted to the General Assembly for approval.

Upon a proposal from *the President*, Ms Eniko Gyori, Ambassador of Hungary in Italy, was elected Chairman.

Documentation for the session

The General Assembly was seised of the following documents prepared by the Secretariat:

1. Provisional agenda (A.G. (55)1 rev.);

2. Statement regarding the Institute's activities in 2001 (Re: Governing Council, 80th session, decisions on Work Programme): Secretariat memorandum (A.G. (55) 8);

3. Final adjustments to the budget and approval of the accounts for the 2000 financial year: Secretariat memorandum (A.G. (55)2);

4. Accounts of receipts and expenditure for the 2000 financial year (Accounts 2000);

5. Adjustments to the budget for the 2001 financial year: Secretariat memorandum (A.G. (55)3);

6. Arrears in contributions of member States: Secretariat memorandum (A.G. (55)4);

7. Approval of the draft budget for 2002 and fixing of the contributions of member States for that financial year: Secretariat memorandum (A.G. (55)5);

8. Proposal of UNIDROIT Secretariat concerning the projecting of the Institute's financial needs on a three-year basis and proposal to modify the system of determining the contribution of the Italian Government: Secretariat memorandum (A.G. (55)6);

9. Classification of new member States in the contributions chart of the Institute: Secretariat memoranda (A.G. (55)7 and Add.).

II. CONSIDERATION OF THE BUSINESS ON THE GENERAL ASSEMBLY'S AGENDA

Item No. 1 - *Adoption of the provisional agenda* (A.G. (55)1 rev.)

The General Assembly adopted the provisional agenda prepared by the Secretariat (reproduced in APPENDIX II).

Item No. 2 - *Statement regarding the Institute's activities in 2001* (A.G. (55) 8)

The Secretary-General, while noting that the traditional full written report on the Institute's activities during 2001 would be circulated among member States early in 2002, gave an oral report on the most significant of these activities, in particular indicating the Institute's commitments in respect thereof over the following year. In this report he focussed in particular on the historic significance of the aforementioned diplomatic Conference for the Institute, not least in the important depositary functions in respect of the two new international instruments that the Conference had decided to confer on the Institute. He paid especial tribute to the Government of South Africa for the extraordinarily efficient, friendly and generous manner in which it had hosted the Conference. His oral report is reproduced in full in APPENDIX III.

The representative of South Africa, on behalf of the Ambassador of South Africa in Italy, expressed her Government's appreciation to UNIDROIT for the decision to hold the diplomatic Conference in South Africa and its satisfaction that the Conference had been such a success.

The General Assembly took note of the Secretary-General's report on the Institute's activities in 2001.

The Secretary-General, in introducing the Institute's Work Programme for the triennium 2002-2004 as proposed by the Governing Council at its 80th session, held in Rome from 17 to 19 September 2001, noted that of the four new topics proposed for inclusion by the Governing Council three (transborder civil liability of the manufacturer, hotel contracts and unfair clauses in consumer contracts and contracts between small and large enterprises) were intended to be placed on a reserve list and only to be the subject of future work by the Institute provided that external human and financial resources could be found. The other topic proposed by the Governing Council for inclusion in the Work Programme, private law aspects of transactions on transnational and connected capital markets, had already been the subject of a Note Verbale addressed to member States on 12 March 2001 inviting States to indicate their priorities as regards the aspects of the topic to be dealt with by the Institute. Some ten to 15 Governments had responded to this Note Verbale. The five aspects of the topic that these responses had indicated as being worthy of the Institute's attention were detailed in A.G. (55)8. The creation of clear and consistent rules for the taking of securities, especially securities held indirectly through intermediaries in multi-tier holding patterns and evidenced by book entries in the investor's account with such intermediaries, as collateral was the subject that had attracted the widest degree of support in these responses. The Secretariat would do everything necessary to ensure that any work it undertook in this area did not duplicate efforts being carried out in other fora, including the international non-governmental organisations, such as I.O.S.C.O. and F.E.S.C.O. He invited those Governments that had not responded to the aforementioned Note Verbale to communicate the results of their internal consultations in this connection to the Secretariat as soon as possible.

In the light of the Secretary-General's report on the Institute's activities in 2001 and his explanation of the Work Programme for the triennium 2002-2004 as proposed by the Governing Council at its 80th session, the General Assembly approved the Work Programme for the triennium 2002-2004 (reproduced in APPENDIX IV).

Item No. 3 – *Final adjustments to the budget and approval of the accounts for the 2000 financial year* (A.G. (55)2 and Accounts 2000)

The Deputy Secretary-General, introducing this item on the agenda, reported that at the close of the financial year 2000 the Institute had to its credit a surplus of Lit. 271,284,687. This was made up of a combination of certain receipts which had not been budgeted for, in particular a higher than anticipated surplus of Lit. 23,047,954 on the previous financial year, the payment of Lit. 111,000,000 by way of the contribution of the Italian Government in respect of the previous financial year, the payment of Lit. 43,366,752 by way of the settlement of arrears owed by member Governments other than Italy in respect of previous financial years, the payment of Lit. 20,000,000 by way of the contribution of the Government of Bolivia and the receipt of Lit. 22,801,149 from the sale of UNIDROIT publications and bank interest, and savings on expenditure, under various chapters of the budget, of Lit. 50,768,651, which had been made with a view to meeting the extraordinary expenditure that was anticipated for the following financial year in connection with the Cape Town diplomatic Conference. The accounts for the financial year 2000 indicated that actual receipts totalled Lit. 3,477,673,082 against estimated receipts of Lit. 3,343,205,000 and that actual expenditure amounted to Lit. 3,292,436,349 against estimated expenditure of Lit. 3,343,205,000.

He indicated that the Finance Committee had given a favourable opinion on the final adjustments to the budget and the accounts for the 2000 financial year.

In the light of the foregoing, the General Assembly approved the final adjustments to the budget and the accounts for the financial year 2000.

Item No. 4 – *Adjustments to the budget for the 2001 financial year* (A.G. (55)3)

The Deputy Secretary-General, introducing this item on the agenda, proposed two modifications to the budget for the financial year 2001, first, that an additional amount of Lit. 30,000,000 should be allocated to the Institute's programme of legal assistance to developing countries and, secondly, that an amount of Lit. 70,000,000 should be allocated to cover the extraordinary expenditure incurred by the Institute in connection with the preparations for the Cape Town diplomatic Conference. The first of these two proposals was designed to give effect to the request made by the UNIDROIT Governing Council that, in recognition of the cultural and humanitarian benefits of the Institute's programme of legal assistance, an additional amount of up to Lit. 30,000,000 of the surplus from the financial year 2000 should be allocated to Chapter 11 of the budget. The other proposal was designed to cover the considerable additional expenditure incurred by the Institute in connection with the Cape Town diplomatic Conference that had not been known to it at the time when the budget for the financial year 2001 was prepared. While the Government of South Africa had been extremely generous in taking care of both the travel expenses and subsistence of the members of the Secretariat who had attended the diplomatic Conference, the Institute had also incurred considerable unforeseen expenditure in connection therewith, in terms not only of exceptional manpower, printing and long-distance telephoning requirements but also by the need that had arisen to share in the cost of the English/French language services supplied by the International Civil Aviation Organization (ICAO) for the diplomatic Conference as well as by reason of the considerable number of additional meetings preparatory to the diplomatic Conference that the Secretariat had found itself obliged to attend. The allocation corresponding to this proposal would be made under a new Chapter 13 of the budget designed to cover diplomatic Conferences and Congresses.

He indicated that the Finance Committee had recommended approval of the Secretariat's proposed adjustments to the budget for the financial year 2001.

In the light of the foregoing, the General Assembly approved the adjustments to the budget for the financial year 2001 proposed by the Secretariat.

Item No. 5 – *Arrears in contributions of member States* (A.G. (55)4)

The Deputy Secretary-General, introducing this item on the agenda, indicated that as of 5 December 2001 the total contributions outstanding from member States in respect of the financial year 2001 and previous financial years stood at Lit. 426,726,920. Of this amount only Lit. 132,531,869 related to contributions outstanding in respect of financial years prior to the financial year 2001. 91.19% (Lit. 3,045,770,949) of the total amount (Lit. 3,339,966,000) due by way of member States' contributions for 2001 had already been settled, which meant that outstanding contributions for the current financial year amounted to only Lit. 294,195,051. He indicated that the Secretariat was continuing to seek to eliminate or, at least, further reduce the arrears in the contributions of member States.

The representative of Portugal announced that instructions for settlement of his Government's contribution for the current financial year had already been given so that it should reach the Institute very shortly.

The Chairman urged those member States that had accumulated arrears in their contributions to settle the same at the earliest opportunity.

It was so agreed.

Item No. 6 – *Approval of the draft budget for 2002 and fixing of the contributions of member States for that financial year* (A.G. (55)5)

The Deputy Secretary-General, introducing this item on the agenda, indicated that, with the impending replacement of the Italian lira by the euro, the Institute's draft budget for the financial year 2002 had been drawn up in euros, instead of Italian lira, for the first time. In preparing this draft budget, the Secretariat had tried to maintain member States' contributions at the same level as in 2001. That this had proved possible, notwithstanding a proposed net increase in expenditure over 2001 of 0.92%, amounting to ? 16,439, would be due, first, to the increase in the contribution of the Italian Government for the triennium 2001-2003 to ? 258,228, secondly, to some reductions in expenditure, thirdly, to use of a surplus of ? 15,494 from the financial year 2001 and, fourthly, to the amount of ? 1,000 in bank interest that the Institute stood to receive if the favourable trend toward prompt settlement of member States' contributions were maintained.

The proposed *increases* in expenditure under the draft budget for the financial year 2002 were as follows.

1. € 1,504 under Chapter 1, Article 1 (Governing Council and Permanent Committee). This represented an increase of 3% over 2001 under this heading and was explained by the need to anticipate an increase in the air fares of members of the Governing Council and the *per diem* allowances to which they were entitled under the scales of the Co-ordinated Organisations applied by the Institute. The increase had been kept down to the absolute minimum and could conceivably create problems should all Council members attend the following session of that body, although it was hoped that it would be possible to offset any such problems by the savings that would be able to be made by certain Council members doubling up as reporters at the aforementioned 4th Congress on Private Law.

2. € 25,514 under Chapter 2, Article 1 (Salaries of Category A, B and C staff). This represented an increase of 2.7% and would be necessary to cover the anticipated upward movement in the scales of the Co-ordinated Organisations in respect of the cost of living allowance and the annual increment in salaries. The fact that this increase had been contained to such an extent was due to the saving that would be realised in respect of the contract of employment of the new member of staff who had been taken on to replace the member of staff whose contract would be coming to an end at the end of 2001. Moreover, since the salaries of some members of staff had reached the maximum permissible for their grade under the salary scales applied by the Institute, it was to be noted that their salaries would in future only grow to the extent justified by increases in the cost of living allowance to which they were entitled.

3. € 1,089 under Chapter 7, Article 6 (Upkeep of building). This was essential to maintain the programme of minor restorations underway in respect of the unique historical patrimony represented by the interior of Villa Aldobrandini. In this connection, while thanking the Italian authorities for the significant restoration work that they were currently carrying out, he expressed the hope that they would in due course also consider restructuring those parts of the

seat of the Institute which had become totally inadequate for its current needs, in particular its meeting rooms which, with the continuing expansion in its membership, were often no longer able to accommodate the increased number of representatives of member States attending its meetings. The Secretariat had already made a submission along these lines to the Italian authorities and was hopeful that, with the assistance of the Italian Ministry of Foreign Affairs, it would receive a positive reply. It was a matter that would moreover fall to be considered by the Finance Committee at its following session, by which time it would dispose of the results of an *ad hoc* meeting between the Secretariat and representatives of the Italian Ministries of Foreign Affairs and Public Works (and in particular the *Genio Civile* and *Provveditorato dello Stato*).

4. € 4,342 under Chapter 7, Article 7 (Labour costs). This was explained by the intention in future to outsource a certain amount of the work (such as the running of messages) that had hitherto been carried out by the aforementioned member of staff whose contract of employment would be coming to an end at the end of 2001.

On the other hand, the proposed *savings* under the draft budget for the financial year 2002 were as follows:

1. € 15,494 under Chapter 3, Article 1 (Insurance of staff against disablement, old age and sickness). This had been made possible by the introduction of a new system of social security charges in Italy, the effect of which had been to absorb part of these charges in a new regional tax, I.R.A.P. (the Institute being exempted from the payment of any national, regional or local taxation under the terms of its revised Headquarters Agreement with the Government of Italy), and the settlement by the Institute of a debt owed to the Italian Social Security Institute (I.N.P.S.), the Organisation with which the Institute insured its staff.

2. € 516 under Chapter 4 (Compensatory payments to retired members of staff). This had been made possible by the death of a former member of staff.

The Deputy Secretary-General finally proposed one modification to the draft budget for 2002. In the light of the General Assembly's approval of the Secretariat's proposed adjustments to the budget for the financial year 2001, he proposed that ? 57,326 of the surplus that would stand to the Institute's credit at the end of that financial year should be allocated, under the new Chapter 13 of the budget for the financial year 2002, to the organisation of the postponed 4th Congress on Private Law, to which the Secretary-General had referred in his oral report on the Institute's activities in 2001 (cf. APPENDIX III) and which had been approved by the Governing Council at its 79th session, held in Lisbon from 10 to 13 April 2000. Subject to the General Assembly's acceptance of this proposal, the Secretariat planned to convene said Congress in Rome in September 2002.

He finally indicated that the Finance Committee, after an in depth examination of the draft budget together with the Secretariat's proposed modification thereto for the purpose of organising the 4th Congress on Private Law, had recommended that the General Assembly adopt the draft budget as so modified.

The representative of Japan drew attention to the difficult world economic situation resulting from the slowing down of the world economy. This affected every country, including his own. While congratulating the Secretariat on its steady and prudent financial management and its success in maintaining member States' contributions at the same level as the previous year, he therefore counselled it against any relaxation in its thrifty approach over the coming year, in particular urging it always to seek value for money and to be on its guard against any possible waste.

The representative of the United States of America reiterated both her Government's and her country's private sector's strong support for the Institute, welcoming the growth in its membership.

Recalling that her Government continued to follow the policy of zero nominal budgetary growth for all international Organisations, she stated that her Government would not therefore be able to join the consensus in favour of the draft budget, whilst at the same time however not desiring to block any such consensus.

In the light of the foregoing, the General Assembly adopted the budget for 2002 with the modification proposed by the Secretariat.

Item No. 7 – *Proposal of UNIDROIT Secretariat concerning the projecting of the Institute's financial needs on a three-year basis and proposal to modify the system of determining the contribution of the Italian Government* (A.G. (55)6)

The Chairman noted that the effect of the Secretariat's proposal would require the amendment of Article 16(1) of the Statute.

The Secretary-General, introducing this item on the agenda, indicated that the Secretariat's proposal was made up of two elements, the one designed to permit a mid-term projecting of the Institute's financial needs and the other a modification in the system for the determination of the host Government's contribution to the Institute's budget.

The reasons justifying the *projecting* of the Institute's financial needs on a three-year basis – the Institute's budgets would, however, continue to be drawn up on a yearly basis - were four in number. First, the Administrations of certain member States, in particular those States which planned their expenditure over a period of several years, had expressed a preference to know well in advance the amount of their contributions to international Organisations like UNIDROIT in order to make due provision in their budgets. Secondly, a three-year projection of the Institute's financial needs would bring the budget more into line with the requirements of its Work Programme, which was also organised on a three-year basis. Thirdly, it seemed reasonable to assume that the introduction of the euro would usher in a period of relative price stability. Fourthly, the Secretariat's proposal for the amendment of Article 16(1) of the Statute in such a way as to fix the contribution of the Government of Italy as a compulsory fixed percentage of the Institute's ordinary expenditure was likely to commend itself more to the Italian Government if the Institute moved over to a system of projecting its financial needs over a three-year period in so far as the Italian Government's Finance Act was also approved every three years.

In considering the Secretariat's proposal for the modification of the system whereby the Italian Government's contribution to the Institute's budget was determined, it was necessary to bear in mind that, following the last modification of this system – and therefore Article 16(1) of the Statute - in 1985, the Italian Government's contribution represented approximately 25% of the Institute's total annual ordinary expenditure. By contrast, notwithstanding the aforementioned recent increase in the Italian Government's contribution, this currently represented only approximately 15% of the Institute's annual ordinary expenditure. The Italian Authorities had made it clear that they were not opposed to a restoration of their contribution to the percentage of the Institute's annual ordinary expenditure at which it had stood in 1985.

By way of explanation of the proposal that the Italian Government's contribution to UNIDROIT should be made a *compulsory* budgetary obligation of that Government, he pointed out that, even if it had always honoured its statutory obligations to the Institute scrupulously, its contribution to UNIDROIT was nevertheless currently covered under a chapter of the Italian budget providing for *non-compulsory* contributions.

The Secretariat had therefore launched negotiations with the Italian Ministries of Foreign Affairs and Treasury seeking, first, to restore that Government's contribution to a percentage of the Institute's annual ordinary expenditure that corresponded more closely to the percentage (approximately 25%) represented by its contribution in 1985 and, secondly, to secure the reclassification of the Italian Government's contribution to UNIDROIT among the compulsory budgetary obligations of that Government. These negotiations had virtually been completed earlier in the year when there had been a change in the Italian Government following a general election. However, he hoped that it would be possible to wrap up the new negotiations that had followed the taking of office by the new Government by 31 January 2002.

The representative of Mexico indicated that his Government supported the proposed amendment of Article 16(1) of the Statute. It believed that it would lead to a greater rationalisation of the Institute's expenditure as well as providing greater certainty in the distribution of financial resources in the mid-term. His Government also considered that acceptance of the Secretariat's proposal would result in the effecting of genuine progress as regards the organisation of the Institute's activities.

The representative of Argentina indicated that, while his Government too supported the proposed amendment of Article 16(1), it nevertheless wondered whether, in so far as that amendment was designed in part to convert the Italian Government's contribution from a *voluntary* to a *compulsory* contribution, a consequential amendment might not be necessary to Article 18(1), which provided that the commitment of the Italian Government in respect of its annual contribution was tacitly renewed every six years unless that Government notified other member Governments at least two years before the end of a particular six-year period of its intention to cease making its contribution.

The representative of Austria, indicating that his Government too greatly welcomed the proposed amendment to Article 16(1) and accordingly supported adoption of the draft Resolution that the Secretariat had submitted to the General Assembly designed to authorise the Secretariat to pursue its negotiations with the Italian Government, enquired as to the procedure to be followed once the negotiations had been completed.

The Secretary-General responded that, should the negotiations be completed as expeditiously as was his hope, it was his intention, once they were completed, to convene both the Finance Committee and the General Assembly in extraordinary session to take the necessary steps with regard to the amendment of Article 16(1) without waiting for the traditional Finance Committee and General Assembly sessions held toward the end of the year.

The representative of Japan, whilst indicating that his Government had no objections to implementation of the Secretariat's proposal, noted that, of the two methods for the calculation of member States' contributions mentioned in that proposal (cf. A.G. (55)6, § 5), his Government preferred the second – whereby exactly the same amount would be credited to each budget of the three-year period concerned – as being the safer, more neutral solution, especially as regards changes that might be made over the three-year period in the interest rate applicable to the sums deposited in the Institute's account.

In response to a query from *the representative of Austria* regarding whether there was not a danger of the Italian Government's *international* obligation toward the Institute under the proposed amendment being undercut by the *internal* contribution that served to meet that obligation remaining voluntary in nature, *the Secretary-General* stressed that the intention of the Secretariat's proposal would be to make the Italian Government's future contributions to the Institute's budget obligatory not only under the Statute but also under the Italian national budget.

The representative of Spain, noting that the outcome of the Secretariat's proposal was dependent on the decision of the Italian Government, enquired as to the status of the Secretariat's negotiations with that Government and the position of the Italian Government.

The Secretary-General responded that, since the taking of office by the new Italian Government, these negotiations had been recommenced by the Secretariat. Discussions had been held with the Italian Treasury a few weeks previously and on that occasion the Treasury had indicated its agreement with the Secretariat's proposal. The following step would therefore be for the Italian Ministry of Foreign Affairs, as the organ of the Italian Government responsible for that Government's participation in UNIDROIT, to make a submission to the Treasury requesting implementation of the Secretariat's proposal.

In the light of the foregoing, the General Assembly authorised the Secretariat to pursue its negotiations with the Italian Government concerning the amendment of Article 16(1) of the Statute and adopted the Resolution on this subject (reproduced in APPENDIX V).

Item No. 8 – *Classification of new member States in the contributions chart of the Institute* (A.G. (55) 7 and Add.)

The Chairman congratulated the Governments of the Republic of Estonia and the Federal Republic of Yugoslavia on their decision to accede to the Statute and thus become members of the Institute with effect from 1 January 2002.

The Secretary-General, introducing this item on the agenda, indicated that the Government of the Federal Republic of Yugoslavia had deposited its instrument of accession with the Italian Ministry of Foreign Affairs on 26 April 2001 and that the Republic of Estonia had also notified the Italian Ministry of Foreign Affairs of its accession by a Note Verbale dated 26 November 2001. It accordingly fell to the General Assembly to fix the category in the Institute's contributions chart in which the aforementioned two Governments should be classified following their accession to the Statute. Given that the contribution of the Government of the Republic of Estonia to the current United Nations budget amounted to 0.012% of that Organisation's budget and that that of the Government of the Federal Republic of Yugoslavia amounted to 0.026% of that budget, he proposed that they both be classified in Category VIII of the Institute's contributions chart, made up of those States that contributed between 0.005% and 0.114% to the United Nations budget and corresponding to a contribution of ? 10,850.

It was so agreed.

Closure of the session

No other business being raised, *the Chairman*, expressing her appreciation to the Secretariat for its efficient preparation of the session, declared it closed at 11.10 a.m.

APPENDIX I
ANNEXE I

LIST OF PARTICIPANTS/*LISTE DES PARTICIPANTS*

ARGENTINA/*ARGENTINE*	Mr Claudio Javier ROZENCWAIG, Secretary, Embassy of Argentina to Italy
AUSTRALIA/*AUSTRALIE*	Excused/*excusé*
AUSTRIA/*AUTRICHE*	Mr Klaus FAMIRA, Second Secretary Embassy of Austria to Italy
BELGIUM/*BELGIQUE*	Mr Leo PEETERS, Counsellor Embassy of Belgium to Italy
BOLIVIA/*BOLIVIE*	Excused/*excusé*
BRAZIL/*BRESIL*	Mr Alfredo LEONI, Counsellor Embassy of Brazil to Italy
BULGARIA/*BULGARIE*	Ms Krassimira BESHKOVA, Attaché Ministry of Foreign Affairs
CANADA	Mr Khawar NASIM, Second Secretary Embassy of Canada to Italy
CHILE/*CHILI*	Excused/*excusé*
CHINA/*CHINE*	Ms JIN Hong, Second Secretary Mr SHAO Bin, Attaché Embassy of China to Italy
COLOMBIA/*COLOMBIE*	Mr Juan Carlos ESPINOSA, First Secretary Embassy of Colombia to Italy
CROATIA/*CROATIE*	Mr Neven BORIC, First Secretary Embassy of Croatia to Italy
CYPRUS/*CHYPRE*	Excused/*excusé*
CZECH REPUBLIC/ *REPUBLIQUE TCHEQUE*	Mr Petr JAROS, Second Secretary Embassy of the Czech Republic to Italy
DENMARK/*DANEMARK*	excused/*excusé*

EGYPT/*EGYPTE*	Mr Bassam RADY, Second Secretary Embassy of Egypt to Italy
FINLAND/*FINLANDE*	Mr Seppo TUNTURI, First Secretary Embassy of Finland to Italy
FRANCE	Ms Sonia HALIMI-D'ALESSIO, Attaché Embassy of France to Italy
GERMANY/*ALLEMAGNE*	Mr Peter SEIDEL, Counsellor Embassy of Germany to Italy
GREECE/*GRECE*	excused/*excusé*
HOLY SEE/*SAINT SIEGE*	Mr Giuseppe DELLA TORRE, Professor
HUNGARY/*HONGRIE*	H.E. Ms Eniko GYORI, Ambassador of Hungary to Italy Mr Zoltán FEJES, Counsellor Embassy of Hungary to Italy
INDIA/*INDE*	Excused/*excusé*
IRAN	Mr Mohammad EMAD, Second Secretary Embassy of the Islamic Republic of Iran to Italy
IRELAND/*IRLANDE*	Excused/*excusé*
ISRAEL	Excused/*excusé*
ITALY/*ITALIE*	Mr Angelo TRAVAGLINI, Counsellor, "Contenzioso Diplomatico", Ministry of Foreign Affairs
JAPAN/*JAPON*	Mr Masaharu SATO, Counsellor Embassy of Japan to Italy
LUXEMBOURG	Excused/*excusé*
MALTA/*MALTE*	Mr Joseph IZZO CLARKE, Counsellor Embassy of Malta to Italy
MEXICO/*MEXIQUE*	Mr José Luis ALVARADO, Counsellor, Embassy of Mexico to Italy
NETHERLANDS/*PAYS-BAS*	Ms Quirine VAN DER LINDE, Second Secretary, Embassy of the Netherlands to Italy

NIGERIA	Excused / *excusé*
NORWAY / *NORVEGE*	Ms Aud Lise NORHEIM, Minister Counsellor, Embassy of Norway to Italy
PAKISTAN	Excused / *excusé*
POLAND / *POLOGNE*	Ms Jolanda JANEK, First Secretary, Embassy of Poland to Italy
PORTUGAL	Mr Miguel de ALMEIDA e SOUSA, Minister Counsellor, Embassy of Portugal to Italy
REPUBLIC OF KOREA / *REPUBLIQUE DE COREE*	Mr Dae Hyun KANG, Counsellor Embassy of the Republic of Korea to Italy
ROMANIA / *ROUMANIE*	Mr Ion CALCIU, Counsellor, Embassy of Romania to Italy
RUSSIAN FEDERATION / *FEDERATION DE RUSSIE*	Mr Alexander SILIKOV, Legal Consultant Trade Representation of the Russian Federation to Italy
SAN MARINO / *SAINT-MARIN*	Mr Victor CRESCENZI, Professor
SLOVAKIA / *SLOVAQUIE*	Mr Milan PAKSI, Permanent Representative, Embassy of Slovakia to Italy
SLOVENIA / *SLOVENIE*	Excused / *excusé*
SOUTH AFRICA / *AFRIQUE DU SUD*	Ms Tienie DU TOIT, First Secretary Embassy of South Africa to Italy
SPAIN / *ESPAGNE*	Mr Luis CUESTA, First Secretary Embassy of Spain to Italy
SWEDEN / *SUEDE*	Ms Victoria FLODH LI, First Secretary Embassy of Sweden to Italy
SWITZERLAND / *SUISSE*	Mr Josef RENGGLI, Second Secretary, Embassy of Switzerland to Italy
TUNISIA / *TUNISIE*	Mr Moez SINAOUI, Counsellor, Embassy of Tunisia to Italy
TURKEY / *TURQUIE*	excused / *excusé*

UNITED KINGDOM/*ROYAUME-UNI*	Ms Emma LOCKWOOD, Third Secretary Embassy of the United Kingdom to Italy
UNITED STATES OF AMERICA/ *ETATS-UNIS D'AMERIQUE*	Ms Lucy TAMLIN, First Secretary, Deputy Permanent Representative, United States Mission to the United Nations Agencies for Food and Agriculture
URUGUAY	Mr Gerardo ARIEL RUSIÑOL SALLÚA, Minister Counsellor, Embassy of Uruguay to Italy
VENEZUELA	excused/*excusé*
YUGOSLAVIA / YOUGOSLAVIE	Mr Nenad GLISIC, Counsellor, Embassy of the Federal Republic of Yugoslavia to Italy

OBSERVER/*OBSERVATEUR*

ESTONIA */ ESTONIE*	Ms Eva-Maria LIIMETS, Second Secretary, Embassy of the Republic of Estonia to Italy
SOVEREIGN MILITARY ORDER OF / MALTA/*ORDRE SOUVERAIN* MILITAIRE *DE MALTE*	His Excellency Marquis Aldo PEZZANA CAPRANICA DEL GRILLO, Ambassador

UNIDROIT

Mr Berardino LIBONATI, President/*Président*
Mr Herbert KRONKE, Secretary-General/*Secrétaire-Général*
Mr Walter RODINO', Deputy Secretary-General/*Secrétaire Général adjoint*
Mr Martin STANFORD, Principal Research Officer / *Chargé de recherches principal*

APPENDIX II

AGENDA

1. Adoption of the draft agenda (A.G. (55) 1 prov.)

2. Statement regarding the Institute's activities in 2001 (A.G. (55) 8)

3. Final adjustments to the budget and approval of the accounts for 2000 financial year (A.G. (55) 2 and Accounts 2000)

4. Adjustments to the budget for the 2001 financial year (A.G. (55) 3)

5. Arrears in contributions of member States (A.G. (55) 4)

6. Approval of the draft budget for 2002 and fixing of the contributions of member States for that financial year (A.G. (55) 5)

7. Proposal of UNIDROIT Secretariat concerning the projecting of the Institute's financial needs on a three years basis and proposal to modify the system of determining the contribution of the Italian Government (Proposed amendment of Article 16(1) of the Statute) (A.G. (55) 6)

8. Classification of new member States in the contributions chart of the Institute (A.G. (55) 7)

9. Other business

APPENDIX III

Madam Chair,
Excellencies,
Distinguished Representatives of Member States,

Since the comprehensive Report on the Institute's activities in 2001 will, as usual, be submitted to you in early 2002 in written form, I shall not try to be exhaustive today. That is, I shall not go into details with regard for example to ratifications of UNIDROIT Conventions – the Cultural Objects and the Leasing Convention were ratified by two States – and similar matters. I would rather like to provide you with an overview – from an eagle's perspective – leaving many events of minor importance in the shade.

1. By far the most significant event in the Organisation's history since 1995, and probably beyond, was the diplomatic Conference, held in Cape Town, South Africa, which adopted on 16 November 2001 the Cape Town Convention on International Interests in Mobile Equipment and the first of a series of protocols, i.e. the Protocol on Matters specific to Aircraft Equipment.

This is a moment to express gratitude, joy, satisfaction and expectations.

Member States – I have no doubts that you permit me to speak on your behalf –, non-Member States and the Organisation itself owe their most sincere gratitude to the People and the Government of the Republic of South Africa. I did not meet one delegate who would not have agreed that never in the history of international commercial law had a diplomatic Conference been organised in such an efficient, friendly and generous manner. The Minister of Transport himself, Dr Abdullah Omar, spent a considerable amount of time with us and several of his colleagues from throughout Africa did likewise.

The product which came out of the Conference justifies, we believe, to express joy and satisfaction. After 10 years of hard work, we have put in place a new international regimen for asset-based financing of high-value mobile equipment. Manufacturers, financiers, operators and users of such equipment can be expected to benefit as a result of credit cost being cut, hopefully, because of a more reliable legal framework for secured financing.

No wonder, therefore, that of the 68 negotiating States as many as 20 not only signed the Final Act but also – a very rare event –, on the same day, the Convention and the Protocol. Among them were major user States as well as manufacturer and financier States such as the United Kingdom, France, China, Switzerland and, of course, South Africa, with the United States, Germany and Canada making it known that they expect to sign shortly.

More good news are to come: at the unanimous request of the negotiating States, UNIDROIT accepted to be depositary of the two instruments. It is the first time in the Organisation's history that we are depositary of one of our Conventions. This means, *inter alia*, that the instruments are now open to signature in Rome and I am pleased to inform you that our host State, Italy, signed both instruments yesterday. However, it also means that we have greater responsibilities and considerable expenditure because the uniquely complex system of declarations, withdrawal of and additions to declarations, which may vary over time under this innovative legal framework, will require that we assign the duties of treaty clerk to one of my colleagues and that we purchase suitable software and design procedures which will meet the extremely sensitive needs of financiers, manufacturers, operators as well as Member States' registries and, above all, the international registry system created by the Convention. Moreover, yet another novelty in international commercial treaty law will have to be implemented, i.e. funded: an ongoing review process, assigned to the UNIDROIT Secretariat, is designed to monitor the functioning of the treaty system and to see to it that review conferences remedy insufficiencies if and when they become manifest. States, frustrated with inefficiency-generating fossilisations, have asked for the "living" commercial law treaty. Now they have it inevitably at a – I hasten to say – *modest* price.

What lies ahead? Since the diplomatic Conference opted for the famous multi-equipment approach, we are moving forward with the Second Joint Session of Governmental Experts UNIDROIT / OTIF which is expected to finalise the second protocol, i.e. the Protocol on Railway Rolling Stock next June here in Rome. And the third protocol, the Space Protocol, designed to facilitate financing space assets and space-based services, such as telecommunications, meteorological and environmental monitoring, disaster forecast etc., will be subject of a Steering & Revisions Committee meeting in February and then, hopefully, of a Governmental Experts Committee later in 2002.

2. Other projects have been moved ahead:

a) Firstly, the Study Group in charge of drafting Part II of the UNIDROIT Principles of International Commercial Contracts has held a full one-day meeting in this room in June. Moreover, it was able to hold another meeting of the Rapporteurs, generously funded by a private foundation bearing the name of the German comparativist Ernst von Caemmerer in Freiburg / Germany.

b) Secondly, the proposed Model Law on Franchising was examined by a First Session of Governmenal Experts, held in June here in Rome. We were particularly pleased with the strong attendance by delegations from Central and Eastern Europe and developing countries. The next session will be held in April 2002.

c) Thirdly, the joint venture UNIDROIT/ALI on Principles on Transnational Civil Procedure also made more progress than we could expect when I reported to you a year ago. The Study Group efficiently used a week here in Rome in July as well as inter-session work to come up with a very mature draft. The *Uniform Law Review/Revue de droit uniforme* will dedicate a special issue to the project next summer.

d) Of the many scholarly and / or practitioner-oriented seminars and colloquia with UNIDROIT's participation, ranging from e-banking to commercial use of outer space and to the problems posed by conflicts between world-wide harmonisation of private law and the European Judicial Co-operation, I shall mention but three:

(i) The International Chamber of Commerce (ICC) and UNIDROIT organised a seminar in April 2001 for a selected group of practitioners on the use of the Principles of Commercial Contracts in arbitration;

(ii) The Ministry of Foreign Affairs of Uruguay organised in October 2001, in the run-up to the Cape Town diplomatic Conference, a seminar in Montevideo on the draft Convention and the Protocol and their relationship with the proposal for an Inter-American Model Law on secured transactions within the OAS framework. Delegates from all MERCOSUR Member States, Colombia and Bolivia attended;

(iii) The Italian Ministry of Foreign Affairs organised, in co-operation with the French Ministry of Foreign Affairs and UNIDROIT, a conference on the imprint of different legal traditions on international commercial transactions. This conference took place last Thursday and Friday (29 and 30 November 2001).

Madam Chair,
Excellencies,
Ladies and Gentlemen,

The kettle is boiling and more pots will be on the fire shortly.

This is an appropriate moment for new Member States to join us.

And indeed, in 2001, two States acceded to the UNIDROIT Statute: the Federal Republic of Yugoslavia and, only a few days ago, the Republic of Estonia. We are very glad to welcome them on board.

At the invitation of the Governments of Latvia and Lithuania, I visited those countries, had very substantial and promising discussions at the highest level and now hope that "Lietuva sieka tapti UNIDROIT Statuto nare" – I am quoting from the Lithuanian periodical "Justitia" –, meaning "Lithuania is eager to accede to the UNIDROIT Statute".

Let me conclude this part of my Report by briefly outlining the decisions taken by the Governing Council, at its 80th Session, with regard to the 2001-2004 Work Programme. It is not entirely new, since we discussed certain ingredients previously and you forwarded a Note Verbale, dated 12 March 2001, dealing with Transactions on Transnational and Connected Capital Markets" to your capital cities. Approximately 10-15 Governments replied indicating their priorities.

Let me take you briefly through the key paragraphs of Doc A.G. (55) 8 [follows an outline of the relevant passages of the document and further explanations with regard to certain items].

Most important now would appear to be the last paragraph of the document: II Action required. Those Governments who have not responded to the Note Verbale are now urged to complete their consultations so as to ensure that their views are known to the Study Group.

Many things did happen and are happening. But one major event, on everybody's mind last year, did not happen.

UNIDROIT, founded in 1926, did not celebrate its 75th Anniversary as it had planned. The funds which would have enabled us to organise the Fourth International Congress of Private Law were not forthcoming.

The Congress will now be held in Rome on 27 and 28 September 2002 and it will examine the arguably most important issue for the future of an Organisation like ours: the relationship between worldwide harmonisation of private and commercial law – e.g. at UNIDROIT – on the one hand and regional economic integration – with varying objectives and to a varying degree – on the other hand.

Just think of the EU (a single market and monetary union with hundreds of commercial law harmonising instruments in force and in the making), NAFTA (a completely different free trade association), the MERCOSUR, the West-African OHADA and the Southern African SADEC etc. etc.

Of course, we want to make sure that representatives of those Organisations and their Member States participate actively in that exploratory exercise.

But we want much more.

Ladies and Gentlemen, you are all acquainted with the UNIDROIT scholarship programme for young government officials, scholars, judges etc. to come to Rome and to work for a couple of months on a project in the area of uniform private and commercial law.

The programme is funded by special extra-budgetary contributions from the following Member States: Canada, Finland, France, Korea and, for the first time and very substantially, China.

Not only are we grateful to those five Governments because in 2001 19 beneficiaries from 14 countries were enabled to carry out research in our library (a library on the brink of bankruptcy, which again received a very substantial extra-budgetary donation from Germany), but we would appeal to Member States who are not yet participating to consider the possibility of funding one person – maybe from one specific developing country or a country in the process of reforming its economy – coming to Rome specifically for the Anniversary Congress.

Madam Chair,
Excellencies,
Distinguished Representatives of Member States,

Let me remark, in concluding, that 2001 was a year during which my colleagues on the Secretariat, our library staff as well as our clerical and technical staff, once again, worked very often at the limits of what is physically – and intellectually – possible. They did so with enthusiasm and, generally speaking, exhaustion hardly surfaced. The Organisation is looking forward to meet the challenges of the years to come – provided, of course, Member States' Governments contribute their part, an issue not fully, but partly addressed under items 4-7 of the Agenda.

APPENDIX IV

WORK PROGRAMME FOR THE TRIENNIUM 2002-2004

approved by the General Assembly at its 55th session
(Rome, 7 December 2001)

I. PREPARATION OF UNIFORM LAW INSTRUMENTS

1. International interests in mobile equipment
2. The UNIDROIT Principles of International Commercial Contracts
3. Franchising
4. Principles and rules of transnational civil procedure
5. Private law aspects of transactions on transnational and connected capital markets
6. Leasing
7. Secured transactions in general
8. Uniform rules applicable to transport
9. Transborder civil liability of the manufacturer (*)
10. Hotel contracts (*)
11. Unfair clauses in consumer contracts and contracts between small and large enterprises (*)

II. ACTIVITIES CONNECTED WITH THE UNIFICATION OF LAW

1. Programme of legal co-operation
2. Promotion of UNIDROIT activities and instruments (in particular, the Internet site)
3. UNIDROIT publications
4. Data base on uniform law (in collaboration with the Uniform Law Foundation)
5. Uniform Law Foundation

(*) This topic is only to be the subject of work by the Institute over the triennium provided that external human and financial resources can be found.

APPENDIX V

RESOLUTION

adopted by the General Assembly at its 55th session on 7 December 2001

THE GENERAL ASSEMBLY of the International Institute for the Unification of Private Law (UNIDROIT), meeting in Rome on 7 December 2001 to examine the financial situation of the Institute and to adopt the Work Programme for the 2002-2004 triennial period,

RECALLING that, when the criteria for financing the Institute were first reformed, contributions of member States were *de facto* established on a proportional basis, with the Italian Government contributing approximately 25% of the Institute's total ordinary expenditure and the other member States approximately 75% between them,

AWARE both of the need to develop new harmonised law reform initiatives at a time of globalisation of the world economy and of the impossibility of doing so as long as the financial means at the Institute's disposal remain as limited as they are at present,

NOTING that both the number of member States of the Institute and the scale of its work in progress increasingly dictate the need for recourse to be had to the use of external premises, given that Villa Aldobrandini would need extensive restructuring in order to accommodate the number of member States' representatives likely to be attending its meetings in future,

TAKING NOTE of the report of the Secretary-General on the favourable attitude of the Italian Authorities toward the requests made by the Institute that they increase their contribution to the Institute's budget, that that contribution be expressed as a percentage of the total ordinary expenditure of the Institute and that this expenditure be included among the obligatory expenses of the budget of the Italian State,

I N V I T E S

1. the Secretariat to continue negotiations with the Italian Authorities with a view to re-establishing the financial contribution of the host State as envisaged by the Organisation's Statute and to ensuring the Organisation's proper functioning and development; and

2. the President of the Institute to convene a special session of the Finance Committee and the General Assembly thereafter.