



INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW
INSTITUT INTERNATIONAL POUR L'UNIFICATION DU DROIT PRIVE

**SUMMARY
OF THE CONCLUSIONS REACHED BY THE GOVERNING COUNCIL
AT ITS 85th SESSION**

(8-10 May 2006)

Item No. 1 on the agenda: Adoption of the agenda

The Council adopted the agenda as proposed in C.D. (85) 1 rev., amended in such a way as to inverse the order of Item No. 2 (Annual Report 2005) and Item No. 3 (Appointment of the First and Second Vice-Presidents of the Governing Council) and to permit Item No. 17 to be taken up in the context of Item No. 4.

Item No. 2 on the agenda: Appointment of the First and Second Vice-Presidents

The Council, on a proposal by Mr Inglese, renewed *Professor Hartkamp's* appointment as First Vice-President and appointed Dr *Elaraby* Second Vice-President in both cases to the end of the 85th session.

Items No. 3 and 4 on the agenda: Annual Report and Implementation of the Strategic Plan

The Council took note of the Secretary-General's report on the activity of the Institute during 2005. It also took note of the Secretary-General's report on the implementation of the Strategic Plan during 2005, welcoming in particular the appointment of the new Deputy Secretaries-General and the new presentation of Council documents. It agreed that these should in future also provide an indication of the benefits to be expected under each project. While noting developments which gave cause for optimism, in particular the accession of a new member State (Latvia) as from 1 January 2006 and the likely accession of another as from 1 January 2007, it expressed concern at the budgetary constraints imposed by member Governments, requiring the rationalisation of existing resources and the need to establish priorities.

Item No. 5 on the agenda: Report on the situation regarding correspondents

The Council decided to set up a sub-committee, to be chaired by Professor. Gabriel, to consider the most appropriate means of revitalising the Institute's network of correspondents. The Council also decided to appoint Jenner & Block the first of a new category of correspondent, to be denominated corporate correspondents, in recognition of an extraordinary contribution made to the Institute's work.

Item No. 6 on the agenda: Principles of International Commercial Contracts

The Council took note with appreciation of the efforts made by the Secretariat to promote the 2004 edition of the Principles of International Commercial Contracts and to monitor their use in practice.

It confirmed, first, the unwinding of failed contracts, secondly, illegality, thirdly, the plurality of debtors and creditors, fourthly, conditions and, fifthly, the termination of long-term contracts for cause as the topics to be dealt with by the Working Group to be responsible for the preparation of a third edition of the Principles. It also agreed that the topic of ethics of contracts at the transnational level should be considered and invited Ms Trahan to act as Reporter on this topic.

Item No. 7 (a) on the agenda: International interests in mobile equipment – Draft Protocol to the Cape Town Convention on Matters specific to Railway Rolling Stock

The Governing Council took note of the information provided by the Secretariat on this item.

Item No. 7 (b) on the agenda: International Interests in Mobile Equipment – Draft Protocol on Matters specific to Space Assets

The Council approved the Secretariat's proposals for relaunching and completing, in a timely fashion, the intergovernmental consultation process in respect of the preliminary draft Protocol to the Cape Town Convention on Matters specific to Space Assets.

Item No. 7 (c) on the agenda: International Interests in Mobile Equipment – Preparation of an additional Protocol to the Cape Town Convention on Matters Specific to Agricultural, Construction and Mining Equipment

The Council expressed its deep appreciation for the interesting document prepared by the Secretariat and indicated that work should continue by adopting Option 3 of the suggested possibilities for future work, to the effect that "the Secretariat [should] continue its preliminary research until such time as resources can be freed to pay for the fees of experts in the three fields concerned, in particular by circulating a questionnaire among member States to elicit the information needed for the background document".

Item No. 8 (a) on the agenda: Preliminary draft Convention on Substantive Rules regarding Intermediated Securities

The Governing Council approved the results of the projects and endorsed the plan of the Secretariat to hold a Diplomatic Conference in late 2007. The Governing Council urged the Secretariat to step up its efforts in raising additional funds.

Item No. 8 (b) on the agenda: Principles and rules capable of enhancing trading in securities on emerging markets

The Council took note of the state of affairs as explained in the document. *Mr Sen* reiterated that the resources necessary to take up work on this item needed to be found as a matter of urgency.

Item No. 9 on the agenda: Preliminary draft Model Law on leasing

The Council agreed to authorise the Secretariat to transmit the preliminary draft model law on leasing established by the Advisory Board for the preparation of a model law on leasing to Governments, once certain provisions had been amended and the preliminary draft model law had in general been brought into line with the Principles of International Commercial Contracts, in the light of comments made by Council members, for finalisation by Governments in a two-stage procedure, to culminate in an extraordinary session of the General Assembly, to be held in conjunction with the 60th session of that body.

Item No. 10 on the agenda: Uniform rules applicable to transport

The Council confirmed the task given to Prof. Putzeys in relation to the draft additional Protocol to the Convention on the Contract for the International Carriage of Goods by Road (C.M.R.), agreed that the joint proposal drafted by the Secretariat of the United Nations Commission on International Trade Law (UNCITRAL) and Prof. Putzeys should be submitted to the United Nations Economic Commission for Europe and expressed its gratitude to him for the invaluable work he was accomplishing on its behalf.

It agreed that, to the extent possible, the Secretariat should be represented by an observer at the work of UNCITRAL directed toward the preparation of a draft Convention on the carriage of goods [wholly or partly] [by sea].

Item No. 11 (a) on the agenda: Status and promotion of UNIDROIT instruments

The Governing Council took note of the information provided by the Secretariat on this point.

Item No. 11 (b) on the agenda: Exercising of the Institute's depositary functions under the Cape Town Convention and the Aircraft Protocol

The Council took note with appreciation of developments regarding the exercising of the Institute's depositary functions under the Cape Town Convention and the Protocol thereto on Matters specific to Aircraft Equipment (hereinafter referred to as the Aircraft Protocol), in particular the entry into force of the latter - and, therefore, the Cape Town Convention as applied to aircraft objects - and the imminent publication of the Acts and Proceedings of the Cape Town diplomatic Conference in English. It decided that a French-language version of the Acts and Proceedings, which might be shorter than the English, should be undertaken.

Item No. 12 on the agenda: Legal co-operation programme

The Council took note with appreciation of the activities deployed by the Secretariat under the Institute's legal co-operation programme and of the need for financial support to enable the holding of a colloquium in Africa on the draft OHADA Uniform Act on contract law. The Council noted that this programme was an integral part of Strategic Objective No. 11 set out in the Strategic Plan.

The Council decided to establish a new research scholarship, to be denominated the UNIDROIT Governing Council Scholarship, to be funded in equal shares by members of the Council, with immediate effect. The Council took note of the Secretary-General's consequent decision personally to fund another research scholarship.

Item No. 13 on the agenda: Situation of the Library

The Council took note of the significant efforts made and the results achieved, in particular with respect to approaching the goal of an electronically searchable catalogue, and encouraged member Governments to be more generous when discussing the relevant chapter of the budget.

Item No. 14 on the agenda: Uniform Law Review/Revue de droit uniforme and other publications

The Council took note with appreciation of the efforts made by the Secretariat to improve and develop the Uniform Law Review, in particular in an on-line version. It advocated the publication of an index to the Uniform Law Review.

Item No. 15 on the agenda: The UNIDROIT website and depository libraries for UNIDROIT documentation

The Council took note with appreciation of the efforts made by the Secretariat to develop and improve the UNIDROIT Web Site, as of the new depository libraries for UNIDROIT documentation.

Item No. 16 on the agenda: The Uniform Law Data Base (UNILAW)

The Council, while recognising the importance of the data base, indicated that in view of the large number of priority items on the Work Programme of the Institute, medium-to-low priority status should be afforded this project.

Item No. 17 on the agenda: Establishment of the draft budget for the financial year 2007

The Council took note of the Secretariat's estimates for receipts and expenditure for the 2007 financial year and of the reactions of the Sub-committee of the Finance Committee thereto, expressing particular concern at the reduction in the purchasing power of the budgetary allocation for the Library and urging the Secretariat to stress to the financial organs of the Institute the benefits to the trading position of member States resulting from the international instruments produced by UNIDROIT. It further took note with appreciation of the offer by the Government of the United Kingdom of a donation of £ 50,000 towards the maintenance of the post of Deputy Secretary-General filled from outside the ranks of the Secretariat on condition that UNIDROIT find the remaining shortfall in the Budget for 2007. The Council expressed its support for the position of the Secretariat that the inclusion of the new Deputy Secretary-General in the regular Budget and the Organigramme of the Institute was a matter of the utmost priority, as was the permanent funding of the officer attending to the Institute's depository functions under the Cape Town Convention and the Aircraft Protocol.

Item No. 18 on the agenda: Date and venue of the 86th session of the Governing Council

The Council decided that its 86th session should be held at the seat of the Institute from 16 to 18 April 2007.