



GOVERNING COUNCIL
86th session
Rome 16-18 April 2007

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SUMMARY
OF THE CONCLUSIONS REACHED BY THE GOVERNING COUNCIL
AT ITS 86th SESSION

(16-18 April 2007)

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

The Council adopted the agenda as proposed in C.D. (86) 1.

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

The Council, on a proposal moved by Mr Inglese, renewed Professor Hartkamp's appointment as First Vice-President of the Governing Council and appointed Mr Govey Second Vice-President, in both cases as from the end of the 86th session of the Council.

Item No. 3 on the agenda: Annual Report

The Council took note of the Secretary-General's report on the activity of the Institute during 2006. It also took note of the report by the President of the Uniform Law Foundation, expressing its gratitude to him for all the hard work that he had done over the previous year with a view to relieving pressure on the Institute's budget, in particular by providing extra-budgetary funding for a number of the Institute's activities.

Item No. 4 on the agenda: Implementation of the Strategic Plan

The Council took note of the Secretary-General's report on the implementation of the Strategic Plan during 2006. The Council underlined the significant progress that had been made with respect to financial planning and monitoring, the setting of priorities and, in general, the transparency of management procedures. With respect to the Institute's legislative activities, the Council emphasised the importance of the depository functions under the Cape Town Convention. As regards further broadening of the membership basis, the ASEAN initiative which had already drawn support from the Governments of Australia, Japan and the Netherlands, was considered to be timely and well-chosen. With respect to the proposal for members of the Council to meet to discuss particular issues in *ad hoc* sub-committees during Council sessions this should be tried out during the 86th session for the purposes of conducting a preliminary examination of the procedure that might be followed in the event of the European Community acceding to the UNIDROIT Statute. On the merits, the Council agreed that, while it was for Governments to make any decisions, further and careful analysis of this matter by the Council would be beneficial.

Item No. 5 on the agenda: Preparation of the draft budget for the 2008 financial year

The Council, having taken note of a comprehensive presentation of Governments' views made by the chairman of the Finance Committee and having discussed the draft budget's key features as well as aspects regarding its future developments, approved the draft made on the basis of first estimates as modified by an extra-statutory contribution by the United Kingdom and instructed the Secretariat to allocate the amount of that contribution to the purposes specified by the donor Government.

Item No. 6 on the agenda: Report on the work of the ad hoc Committee on the Regulations regarding the Organisation of the Institute – Financial Administration – Staff

The Council took note of the report of the *ad hoc* Committee which had finished work on Parts One and Two. The council is now awaiting a draft of the amended provisions for approval and transmission to the General Assembly. The Council took further note of the *ad hoc* Committee's intention to proceed to work on Part Three after appropriate consultation of the Institute's staff.

Item No. 7 on the agenda: Procedure and timetable for the selection of a successor to the Secretary-General

The Council decided to call for applications for the position by 30 September 2007 and to set up a Sub-Committee of the Permanent Committee which would conduct the selection and invite short-listed candidates for interview to be held from 8 to 10 November 2007 so as to be able to submit a proposal for the appointment by the Council at its 87th session from 21 to 23 April 2008.

Item No. 8 (a) on the agenda: International interests in mobile equipment – Luxembourg Protocol to the Cape Town Convention on Matters Specific to Railway Rolling Stock

The Council took note, with satisfaction and conveying its gratitude to the host Government of the Grand Duchy of Luxembourg, of the success of the Diplomatic Conference and the adoption of the Protocol on 23 February 2007. The Council recommended that the General Assembly, at its 61st session, pass a Resolution calling upon Governments to lodge instruments of ratification or accession as well as the declarations required or permitted under the Convention and the Protocol only in English and French, the working languages of the Institute, although German was an official language of the Conference and is an authentic language version of the instrument. The Council instructed the Secretariat to take all necessary steps for it to be prepared to efficiently carry out the depositary functions in accordance with Article XXXIV of the Protocol. The Council furthermore instructed the Secretariat to participate in the work of the Preparatory Commission with a view to making sure that the Supervisory Authority be established and the International Registry be operational in a timely fashion. Finally, the Council decided that, while an Official Report would be drawn up by the Rapporteur and a complete collection of the Conference documents be made available, no record of the proceedings should be produced.

Item No. 8 (b) on the agenda: International interests in mobile equipment – Implementation and status of the Cape Town Convention and the Aircraft Protocol

The Council took note of the excellent progress that was made since the last session and invited member States' Governments to (a) work towards further ratifications and accessions and (b) make appropriate efforts to ensure that the Institute would continue to be in a position to carry out the depositary functions, in particular through funding of the post of the officer attending to those functions.

Item No. 8 (c) on the agenda: International interests in mobile equipment – Preliminary draft Protocol to the Cape Town Convention on Matters specific to Space Assets.

The Council approved the reconvening of the Committee of governmental experts, subject to the success of the New York Forum to be held in May, on the basis of an accelerated timetable for completion of the project.

Item No. 8 (d) 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 satisfaction with the excellent quality of the preparatory work completed by the Secretariat. The Council instructed the Secretariat to invite Governments to submit additional comments on the preparatory study contained in document C.D. (86) 8 (d). The Council decided that, in view of other priority items on the work programme and over-stretched resources, further work had to be postponed until such time as the next triennial work programme would be discussed.

Item No. 9 (a) on the agenda: Preliminary draft Convention on substantive Rules regarding Intermediated Securities.

The Council took note, with satisfaction, of the excellent progress the Committee of governmental experts had made. The Council agreed to make a decision as to the approval of the draft and its transmission to a diplomatic Conference, for adoption, as early as practical in 2008, depending on the outcome of the Committee's 4th session and on the basis of the text as finalised by the Committee and the report on its 4th session. The Council furthermore decided that, if the date for the holding of the diplomatic Conference were to be postponed until after the regular end of the Secretary-General's term of office, appropriate measures should be taken to retain his services until completion of the work on this instrument.

Item No. 9 (b) on the agenda: Principles and rules capable of enhancing trading in securities on emerging markets.

The Council confirmed the priority status of this project, subject to the understanding that resources can be devoted to this item only at such time as additional resources are available or the draft Convention on intermediated securities will have been adopted.

Item No. 10 on the agenda: Preparation of additional chapters to the UNIDROIT Principles of International Commercial Contracts

The Council took note, with satisfaction, of the Secretariat's report on the first session of the Working Group and the outline of the work envisaged for the year 2007.

Item No. 11 on the agenda: Model law on leasing

The Council confirmed the procedure agreed upon at its 85th session, namely, at such time as it may be considered to be the subject of consensus among participating Governments, and hopefully following the second session thereof, to lay it before member Governments at an extraordinary session of the General Assembly, for finalisation and approval.

Item No. 12 on the agenda: Implementation and promotion of UNIDROIT instruments other than Cape Town instruments

The Council, while expressing concern at the ever decreasing financial means at the Secretariat's disposal for the promotion of adopted instruments, expressed its satisfaction as regards the success of the Secretariat's efforts with respect to a few instruments such as the 1995 Convention on Stolen or Illegally Exported Cultural Objects.

Item No. 13 on the agenda: Legal co-operation programme

The Council took note, with satisfaction, of the continuing success of the research scholarship programme. While the decreasing percentage of the ordinary budget applied to the scholarship programme was a matter of concern, the Council expressed its gratitude to the Korean Government as well as private donors who continued to support this very important outreach function. The Council congratulated the Working Group for the preparation of Principles of International Commercial Contracts and the Secretariat on the significant progress made with respect to organising a seminar in Ouagadougou (Burkina Faso) devoted to launching a broad debate on the draft OHADA Uniform Act on the law of contracts.

Item No. 14 on the agenda: Situation of the Library

The Council took note, with satisfaction, of the law librarian's relentless and successful efforts to maintain the level of quality of the Library notwithstanding decreasing funding under the regular budget at times of significant increases of publishers' prices. The Council expressed its high appreciation for the results achieved in making the catalogue now available online and linking the UNIDROIT catalogue to those of other leading comparative libraries in Europe.

Item No. 15 on the agenda. Uniform Law Review

The Council took note, with satisfaction, of the Review's excellent state of health and expressed its high appreciation to the Editor for the work done throughout her tenure culminating in finalising the General Index with full-text access in pdf format. The Council set up an *ad hoc* working group tasked with making proposals as to how the present quality of the Review might best be preserved in times of ever greater budget pressure.

Item No. 16 on the agenda: Report on the situation regarding correspondents

The Council adopted the *ad hoc* working group's proposals regarding future appointments.

Item No. 17 on the agenda: Proposals for the appointment of the correspondents

The Council appointed three new individual and one corporate correspondents proposed by the Government of the Russian Federation, the President and the Secretary-General.

Item No. 18 on the agenda: The UNIDROIT website and depository libraries for UNIDROIT documentation

The Council took note, with satisfaction, of the excellent results achieved, at low cost, in upgrading the website and contributing to the dissemination of the Institute's work through both outreach tools.

Item No. 19 on the agenda: The Uniform Law Data Base

The Council took note, with satisfaction, of the progress that had been made, since the last session, in making significant numbers of additional cases on the CMR accessible electronically.

Item No. 20 on the agenda: Liability for satellite based services

The Council took note, with great interest, of the reports on recent meetings submitted by Professor Carbone as well as communications from the Italian Government received by the President. The Council agreed that, in view of that interest on the one hand and concerns regarding the wide-ranging implications on the other hand, informal discussions with all potentially interested Governments should be held with a view to commissioning, should those consultations have a positive outcome, a broad comparative feasibility study.

Item No. 21 on the agenda: Date and venue of the 87th session of the Governing Council

The Council agreed that its 87th session will be held from 21 to 23 April 2008 in Rome.