



GOVERNING COUNCIL
89th session
Rome, 10 - 12 May 2010

UNIDROIT 2010
C.D. (89) Misc 4.
Original: English
May 2010

SUMMARY OF THE CONCLUSIONS

Item 1 on the agenda: Adoption of the agenda (C.D. (89) 1 rev.)

The Council adopted the agenda as proposed in C.D. (89) 1.

Item 2 on the agenda: Appointment of the First and Second Vice-Presidents of the Governing Council (C.D. (89) 1 rev.)

The Council renewed Professor Arthur Hartkamp's appointment as First Vice-President of the Governing Council and appointed Professor Lyou Byung-Hwa Second Vice-President, in both cases as from the end of the 89th session to the end of the 90th session of the Council.

Item 3 on the agenda: Reports

(a) Annual Report 2009 by the Secretary-General (C.D. (89) 2)

The Council took note of the Secretary-General's report on the activity of the Institute during 2009.

(b) Report on the Uniform Law Foundation

The Council took note of the report by the President of the Uniform Law Foundation, expressing its gratitude to him for his tireless efforts over the previous year to relieve pressure on the Institute's budget and to the American Foundation for International Uniform Law and the U.K. International Uniform Law Foundation for their invaluable support in providing extra-budgetary funding for a number of the Institute's activities.

Item 4 on the agenda: Principles of International Commercial Contracts: Consideration and adoption of additional Chapters (C.D. (89) 3)

The Council, taking note of the advanced stage of the work on the new edition of the Principles of International Commercial Contracts, expressed its appreciation to the Working Group and to its Chairman for their extraordinary achievement, and approved in substance the proposed new draft chapters. While postponing formal approval of the 2010 edition of the Principles to its next session, the Council expressed the hope that the new edition would be given the widest publicity by, among others, the organisation of events aimed at promoting it in the various regions of the world. The Council agreed to assign high priority to the finalisation of this project.

Item 5 on the agenda: International Interests in Mobile Equipment

- (a) *Implementation and status of the Cape Town Convention, Aircraft Protocol and Luxembourg Protocol (C.D. (89) 4(a))*

The Council took note of the progress that had been achieved in implementing the Institute's Depositary functions under the Convention and its Protocols.

- (b) *Preliminary draft Protocol to the Cape Town Convention on Matters specific to Space Assets (C.D. (89) 4(b))*

The Council took note of the remarkable progress achieved over the previous year by the Committee of governmental experts for the preparation of a draft Protocol to the Cape Town Convention on Matters specific to Space Assets and authorised the convening by the Secretariat of a fifth session of that Committee to resolve the outstanding issues. Subject to the successful outcome of that session, the Council would expect to be able to authorise the holding of a diplomatic Conference for adoption of the resultant draft Protocol, at its 90th session, in 2011. The Council agreed to assign high priority to the finalisation of this project.

- (c) *Preparation of other Protocols to the Cape Town Convention, in particular on matters specific to agricultural, mining and construction equipment (C.D. (89) 4(c))*

The Council recommended the inclusion of this topic on the Work Programme for the triennium 2011-2013, with a medium/low level of priority. In particular, the Council authorised the Secretariat to continue its consultations with relevant sectors, including industry sectors, in relation to the proposed Protocol so as further to develop an understanding of the potential scope and advantages of the Protocol, and requested that the Secretariat report the outcome of its consultations to the following session of the Council.

Item 6 on the agenda: Transactions on transnational and connected capital markets

- (a) *UNIDROIT Convention on Substantive Rules for Intermediated Securities: Follow-up work and promotion (C.D. (89) 5(a))*

The Council took note of the progress made in the revision of the draft Official Commentary on the Geneva Securities Convention and of the proposals made by the Secretariat for its promotion.

- (b) *Principles and Rules Capable of Enhancing Trading in Securities in Emerging Markets (C.D. (89) 5(b))*

The Council took note of the steps envisaged by the Secretariat to develop a future legislative guide on principles and rules capable of enhancing trading in securities in emerging markets. In view of the overall workload of the Secretariat, including ongoing projects and projects proposed for the triennium 2011-2013, the Council decided that work on the legislative guide this project should be assigned a medium/low level of priority.

Item 7 on the agenda: Model law on Leasing: Follow-up work and promotion (C.D. (89) 6)

Subject to consideration of the most appropriate means of indicating that the Model Law on Leasing covered charter-parties, the Council authorised publication of the Official Commentary on the Model Law, with the rectification proposed by the Secretariat. The Council also approved the holding of seminars in those regions of the world for which it was principally designed, in particular developing countries, subject to the availability of supplementary funding for that purpose.

Item 8 on the agenda: Triennial Work Programme of the Organisation (2011-2013) (C.D. (89) 7)

(a) Possible Future Work on Third Party Liability for Global Navigation Satellite System (GNSS) Services (C.D. (89) 7 Add. 1)

The Council took note of the memorandum prepared by the Secretariat on the subject of possible future work on third party liability for Global Navigation Satellite System (G.N.S.S.) services and, confirming the interest of the subject, recommended its inclusion in the triennial Work Programme of the Institute. The Council invited the Secretariat to conduct informal consultations with the Governments and other Organisations concerned, with a view to ascertaining the feasibility of the project. In view of the overall workload of the Secretariat, including ongoing projects and projects proposed for the triennium 2011-2013, the Council decided that this project should be assigned a medium/low level of priority.

(b) Proposal for an instrument on the Netting of Financial Instruments (C.D. (89) 7 Add. 2)

The Council took note of the memorandum prepared by the Secretariat on the subject of possible future work on the netting of financial instruments and confirmed the great practical and economic interest of the subject. The Council took note, with satisfaction, of the likelihood of extra-statutory financial support becoming available for this project. The Council strongly recommended to the General Assembly the inclusion of this project in the Work Programme and the allocation of sufficient resources in order for it to be carried out as a matter of high priority.

(c) Proposal for a Model Law on the Protection of Cultural Property (C.D. (89) 7 Add. 3)

The Council reiterated its keen interest in pursuing collaboration with UNESCO, in the context of promotion of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, with a view to the preparation of model legislative provisions defining the State's ownership of cultural objects, in particular the archaeological heritage. The Council agreed to redefine at its following session, as required, the means to be employed for this purpose.

In view of the overall workload of the Secretariat, including ongoing projects and projects proposed for the triennium 2011-2013, the Council decided that this project should be assigned a low level of priority.

(d) *Possible Future Work in the Area of Private Law and Development*

(i) *Private law aspects of agricultural financing (C.D. (89) 7 Add. 4)*

The Council took note with great interest of the memorandum prepared by the Secretariat on the subject of possible future work on private law aspects of agricultural financing and agreed to recommend its inclusion in the Work Programme. In view of the overall workload of the Secretariat, including ongoing projects and projects proposed for the triennium 2011-2013, the Council decided that this project should be assigned a low level of priority.

(ii) *Guidelines for a legal framework for social enterprises (or for a certain type of social enterprise) (C.D. (89) 7 Add. 5)*

The Council took note of the preliminary study prepared by the Secretariat, recognising the definite interest of the subject, while stressing its complexity, in view of the fact that the field in question was strongly marked by particular national characteristics. After hearing the explanations provided by the representatives of the International Development Law Organization (I.D.L.O.), it indicated its satisfaction at the prospect of possible collaboration with that Organisation, which had agreed to seek funding for this purpose from interested donors. On that basis, the Council agreed to recommend the inclusion of this project in the Work Programme for the triennium 2011-2013, with a medium/low level of priority

(e) *Proposal to establish a UNIDROIT Centre for e-research (C.D. (89) 7 Add. 6)*

The Council took note with great interest of the proposal to create a UNIDROIT e-Research Centre but decided that, in view of the current lack of necessary human and financial resources, it would not be possible to implement the proposal at this moment in time.

Item 9 on the agenda: Implementation and promotion of UNIDROIT instruments other than Cape Town instruments (C.D. (89) 8)

The Council took note of the information given and decided to include its discussion of the implementation of a global promotional strategy for UNIDROIT instruments in the work of the Working Group on the Strategic Plan established by the Council in the course of this session.

In view of the overall workload of the Secretariat and the limited resources available for the promotion of UNIDROIT instruments, the Council recognised, with regret, that, in principle, these activities could only be assigned a low level of priority for the purpose of time allocation within the Secretariat.

Item 10 on the agenda: Legal Co-operation Programme (C.D. (89) 9)

The Council took note of the information supplied by the Secretariat, in particular in respect of the research scholarships programme, and expressed its gratitude to the scheme's donors. The members of the Council moreover decided to renew their personal contribution to the programme with a view to funding one research grant in 2010.

In view of the overall workload of the Secretariat and the limited resources available for the scholarship programme, the Council decided that, in principle, these activities could only be assigned a low level of priority for the purpose of time allocation within the Secretariat.

Item 11 on the agenda: Correspondents (C.D. (89) 10 and C.D. (89) 10 Add.)

The Governing Council appointed Mme Camille Jauffret-Spinosi as correspondent of the Institute and referred the discussion on the functions of correspondents, the length of their mandate, their geographical distribution and ways to breathe new life into the existing network to the Working Group on the Strategic Plan established by the Council in the course of this session.

Item 12 on the agenda: Library (C.D. (89) 11)

The Council took note of the progress made in respect of the Library and thanked the staff for its co-operation during the renovation work carried out on the reading room and the entrance area. It also took note of the activities of the Library and of the proposals made for the improvement of the services that it provided, notwithstanding the limitations imposed by the scarcity of budgetary resources.

The Council confirmed the high priority to be assigned to the maintenance and expansion of the library and the services it provides.

Item 13 on the agenda: Uniform Law Review/ Revue de droit uniforme and other publications (C.D. (89) 12)

The Council took note of the progress made in respect of the Uniform Law Review and other publications.

The Council confirmed the medium/high level of priority to be assigned to the publications programme of the Secretariat.

Item 14 on the agenda: The UNIDROIT Web Site and Depository Libraries for UNIDROIT documentation (C.D. (89) 13)

The Council took note of the progress made in respect of the UNIDROIT web site and the Depository Libraries for UNIDROIT documentation.

The Council confirmed the medium level of priority to be assigned to these activities.

Item 15 on the agenda: The Uniform Law Data Base (C.D. (89) 14)

The Council took note, with appreciation, of the efforts made by the Secretariat to redimension the objectives of the Uniform Law Data Base. The Council approved, in particular, the decision to reserve the full treatment of instruments to instruments prepared by UNIDROIT, or on the basis of work carried out by this organisation, and that treatment of instruments prepared by other organisations should be limited to the provision of links to websites that published their texts and status of implementation. On that basis, the Council agreed to assign medium level of priority to the Uniform Law Data Base.

Item 16 on the agenda: Preparation of the draft budget for the 2011 financial year (C.D. (89) 15)

The Council generally approved the draft budget for the 2011 financial year, but requested the Secretariat to refrain from envisaging an increase in the contributions of member States other than Italy. The Council further requested the Secretariat to achieve the necessary balance in 2011 by reducing its expenditure under Chapters 2 (Salaries and allowances) and 3 (Social security charges) of the draft budget.

Item 17 on the agenda: Strategic Plan (C.D. (89) 16)

The Council took note, with appreciation, of the memorandum containing the suggestions of the Secretary-General to update or redefine the Organisation's strategic objectives and agreed to establish an informal working group to examine the various matters and options outlined in that document with a view to the preparation of a draft new Strategic Plan to be submitted to the Council for consideration at its 90th session, in 2011. The following members of the Council volunteered to participate in the work of the informal working group: Chief Michael Kaase Aondoakaa, Ms Baiba Broka, Mr Sergio Carbone, Mr Henry D. Gabriel, Mr Didier Opertti Badán, Ms Kathryn Sabo and Mr Daniel Tricot.

Item 18 on the agenda: Re-appointment of the Deputy Secretaries-General and report of the Permanent Committee

The Council accepted the recommendation of the Permanent Committee to re-appoint Mr Martin J. Stanford as Deputy Secretary-General for the period from 1 January through 31 December 2011.

The Council further noted that the extra-budgetary contribution generously made by the Government of the United Kingdom towards the funding of the second position of Deputy Secretary-General would end on 31 December 2010 and that the General Assembly was unlikely to agree, under the current international financial climate, to an increase in the contributions of member States to compensate for that shortfall in the Institute's income. The Council decided, with regret, that it had no other option than to accept the recommendation of the Permanent Committee that the contract of Professor Alessandra Zanobetti should be allowed to expire without being renewed. The Council expressed its appreciation and gratitude to Professor Zanobetti for her contribution to the work of the Institute in the past four years.

Lastly, the Council approved the recommendation of the Permanent Committee for the re-appointment of Mr Paolo Aversa as Treasurer for a period of three years beginning 1 January 2011, and took note of the report of the Permanent Committee on the review of the personnel structure of the secretariat.

Item 19 on the agenda: Date and venue of the 90th session of the Governing Council (C.D. (89) 1 rev.)

The Governing Council agreed that its 90th session would be held from 9 to 12 May 2011 in Rome.