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**Item No. 4 on the Agenda: Statement regarding the Institute's activity in 2007 and
Implementation of the Strategic Plan**

(memorandum prepared by the Secretariat)

<i>Summary</i>	<i>Full review of progress and delays regarding the implementation of the Strategic Objectives agreed on in 2004, including staffing and funding implications. The Governing Council has reviewed the document at its 86th session. The priority grade accorded to the items on the Work Programme is indicated.</i>
<i>Action to be taken</i>	<i>The General Assembly, at its 61st session, will be called upon to review the document and to advise the Governing Council, in advance of its 87th session, to be held from 21 to 23 April 2008, of member Governments' views in particular regarding priorities accorded to individual items.</i>
<i>Related documents</i>	<ul style="list-style-type: none">• <i>Strategic Plan – Horizon 2016, UNIDROIT 2004 C.D. (83) 6</i>• <i>UNIDROIT 2007 AG (61) 7</i>• <i>UNIDROIT 2002 IBS Doc. 1 and 2</i>

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I. Implementation in 2006/2007 and Outlook for 2008

1. The Context: An Unusual Year Ahead

- 2008 will be an unusual year due to a unique coincidence of institutional dates: the Governing Council will hold its last session before the General Assembly will be called upon to elect, at its 62nd session, a new Governing Council. The Governing Council will consider and the General Assembly will be invited to adopt, at its 62nd session, to be held in late 2008, the new triennial work programme (2009-2011). Finally, the Governing Council will appoint a new Secretary-General who will take up office in the last quarter of 2008 or, at the latest, on 1 January 2009.

- In carrying out the General Assembly's and the Council's decisions regarding both legislative and non-legislative activities regard will have to be had in particular to the fact that, by early 2008, Governments, other intergovernmental Organisations, correspondents, industry, professional associations and other stakeholders will have submitted proposals for the future work programme and the implications for the Institute's efforts to complete as much outstanding work as feasible.

2. Legislative Activities including Implementation and Promotion of Instruments


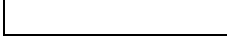
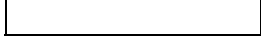
- *Strategic Objective N°1*: the preparation and implementation of international instruments (conventions, model laws, statement of principles, etc.) of the highest possible quality by applying strict criteria of scientific rigour and commercial viability and having regard to the legal implications of regional integration processes in the context of global law-making.
- *Strategic Objective N°6*: increased sensitivity to the potential of both industry and the legal profession to contribute criteria for selection, priorities, evaluation of working methods, procedures and results with a view to securing their support for the adoption and implementation of UNIDROIT instruments.
- *Strategic Objective N°11*: the systematic promotion of and active assistance in implementing, applying and monitoring international instruments elaborated under the Institute's auspices.

A. Work in Progress

Principles of International Commercial Contracts

- Following wide consultations with practitioners, the academic community, industry and arbitral institutions and the decisions taken by the Governing Council and the General Assembly a new Working Group was set up and tasked with preparing new chapters on unwinding of failed contracts, plurality of debtors and creditors, illegality, conditions and termination of long-term contracts for cause.
- The Working Group held its second session from 4 to 8 June 2007. The reporters on the five new chapters submitted and the group discussed four draft reports and one discussion paper.
- At its 40th session held in Vienna from 25 June to 12 July 2007 UNCITRAL formally endorsed the UNIDROIT Principles 2004 recommending their use by the international business and legal communities.
- In addition to the English, French, Spanish and Italian versions of the UNIDROIT Principles 2004, integral versions are available in Chinese, Farsi, Korean, Romanian, Russian, and Vietnamese. The black letter rules are available in German, Japanese, Portuguese, Serbian and Turkish.
- In 2007, the UPICC were presented by members of the Secretariat and discussed at seminars and conferences in Austria, Chile, China, Germany, Japan and Turkey.

Assessment of progress	Good, on time. To be finalised in 2009/10.
Benefits/ Beneficiaries	Reform legislators, contract drafters, arbitrators.

Staffing	1.0 consultant, 0.6 officer (the remaining 40% of whose time is devoted to the website, one publication, and the depository libraries).		
Funding	Regular budget: ❖ staff: (Exp. Ch. 2; Ch. 3); ❖ meeting: € 40,000 (Exp. Ch. 1 § 5).		
Priority acc. By Governing Council	 high	 medium	 low

International Interests in Mobile Equipment

(a) Cape Town Convention/Aircraft Protocol

- The Convention is in force in eighteen (and, as of 1 January 2008, in nineteen) States: Afghanistan, Angola (as of 1 January 2008 Cape Verde), Colombia, Ethiopia, Indonesia, Ireland, Kenya, Malaysia, Mexico, Mongolia, Nigeria, Oman, Pakistan, Panama, Senegal, South Africa, Syrian Arab Republic, United States of America. The Aircraft Protocol is in force in seventeen (and, as of 1 January 2008, in eighteen) States, i.e. the same as aforementioned except the Syrian Arab Republic.

- Assistance was provided for the ongoing implementation process in another nine States in Africa, Asia, the Middle East and the Americas. For the depositary functions, *cf. infra* B.

- The Cape Town Convention and the equipment specific protocols were presented by members of the Secretariat or on its behalf at seminars, conferences and workshops in Belgium, Brazil, Chile, China, Germany, Indonesia, Italy, Japan and Turkey.




(b) Rail Protocol

- The Protocol on Matters Specific to Railway Rolling Stock was adopted by a Diplomatic Conference, held in Luxembourg from 12 to 23 February 2007. 42 States participated. 29 signed the Final Act, and four States signed the Protocol: Gabon, Italy, Luxembourg and Switzerland. In accordance with Resolution 1, adopted by the Conference, a Preparatory Commission tasked with the process of selecting the operator for the international registry and to act as provisional Supervisory Authority was set up. The Commission held its first meeting in Berne (Switzerland) on 16 and 17 July 2007.

(c) Preliminary draft Space Protocol

- Due to lack of resources the Secretariat's activities regarding this project were seriously curtailed. Following the high-level industry meeting in London, another high-level meeting of Government representatives and private sector experts was held in New York on 19 and 20 June 2007; the objective was to renew industry pledges to support the project and to draw up a plan, including time lines, for its completion.

Assessment of Progress	Convention and Aircraft Protocol good. Rail Protocol good. Preliminary draft Space Protocol still unsatisfactory yet back on track.
Benefits/Beneficiaries	<ul style="list-style-type: none"> • Rail Protocol: rail operators in particular in Central and Eastern Europe, Africa, Central Asia and Central America; manufacturers' and financiers of railway rolling stock. • Space Protocol: in particular Governments in developing countries, start-up satellite operators, manufacturers and financiers of satellites.

Staffing	1.25 officer, regular budget ; 1 officer (also in charge of the depositary function) funded by extra-budgetary contributions till August 2007, then regular budget ; clerical support, regular budget (Dép. Ch. 2).		
Funding	<ul style="list-style-type: none"> ❖ Cape Town Convention and Aircraft Protocol: <ul style="list-style-type: none"> – official journeys: regular budget (Exp. Ch. 1); – conferences and seminars: funded by organizing institutions. Rail Protocol: <ul style="list-style-type: none"> – Diplomatic Conference: host Government (Luxembourg); – official journeys: regular budget (Exp. Ch. 1). Preliminary Draft Space Protocol: <ul style="list-style-type: none"> – meetings and official journeys funded by the private sector. 		
Priority acc. by Governing Council	 high	 medium	 low

Transactions on Transnational and Connected Capital Markets

(a) Preliminary Draft Convention on Intermediated Securities

- A fourth session of a Committee of governmental experts was held from 21 to 25 May 2007. The sessions were attended by a total of 36 delegations from member States, one non-member State and 9 observers representing intergovernmental and non-governmental Organisations.
- Ad-hoc working groups on specific problem areas worked between the sessions, and officers of the Committee, members of the Committee's Drafting Committee and members of the Secretariat participated in workshops and presentations in Santiago (Chile), Beijing (PRC), Paris (France) and Berlin (Germany).

(b) General aspects of transactions on transnational capital markets and emerging markets project




- The Secretariat deferred further activities until such time as conclusion of one of the other projects will make resources available.

Assessment of Progress	Good, on time.
Benefits/Beneficiaries	Increasing legal certainty in global custody, clearing and settlement; reducing systemic risk.
Staffing	1.25 officers (including translation); clerical support.
Funding	<ul style="list-style-type: none"> ❖ staff: 1 officer funded by private sector; 0.25 officer (translation) and clerical support regular budget (Exp. Ch. 2, Ch. 3); ❖ meeting: 4th session CGE, regular budget: <ul style="list-style-type: none"> – € 13,000: meeting facilities (Exp. Ch. 1 § 5); – € 6,000 interpreters (Exp. Ch. 6 § 5); ❖ official journeys: regular budget (Exp. Ch. 1 § 6).

Priority acc. by Governing Council			
	high	medium	low

Model Law on Leasing

- A first session of a Committee of governmental experts conference was held from 7 to 10 May in Johannesburg (South Africa). Representatives of the Governments of the following States participated in the first session: Angola, Australia, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Chile, the People's Republic of China, Gambia, Germany, India, Ireland, Japan, Latvia, Oman, Poland, Portugal, Qatar, Rwanda, South Africa, Sudan, Tanzania and the United States of America. Mr J.H. de Lange, Deputy Minister of Justice and Constitutional Development of South Africa, made the opening address at the Johannesburg seminar on 7 May 2007. Ms R. Freeman (Deputy General Manager and Sector Operations Manager, Financial Markets, Private Enterprise Partnership Africa, International Finance Corporation) and the Deputy Secretary-General, Mr Martin Stanford, gave addresses on the practical need for, and the potential uses of the proposed model law. A second session is expected to be held in a potential beneficiary country (and a potential new member State) outside Europe in early 2008. The results achieved at that session will, hopefully, lead to the text's approval by the Council and transmission to the General Assembly for adoption in 2008.




Assessment of progress	Good, slightly delayed.		
Benefits/ Beneficiaries	Primarily African, Asian and Latin American countries in need of leasing legislation.		
Staffing	0.30 officer; clerical support.		
Funding	<ul style="list-style-type: none"> ❖ staff: 0.30 officer (supervising and translation) and clerical support regular budget (Exp. Ch. 2, Ch. 3); ❖ 1st session CGE in Johannesburg : external funding; ❖ official journeys: regular budget (Exp. Ch. 1). 		
Priority acc. by Governing Council			
	high	medium	low

B. Follow-up of adopted UNIDROIT Instruments: Promotion, Implementation, Monitoring

Depositary Functions under the Cape Town Convention

- Review of draft ratification and accession instruments; advice on implementation legislation; co-ordination with Supervisory Authority (ICAO Council) and International Registry (Aviareto); administration of online "Cape Town update"; in house co-ordination of work for Official Commentary, 2nd edition, and Official Commentary on Luxembourg Protocol.

Assessment of quality and effectiveness	Good.
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Staffing	1 officer.		
Funding	❖ staff: extra-budgetary funding by member States ran out 31 August 2007; follow-up funding under regular budget 2007 (Exp. Ch. 2) (see also <i>infra</i> , II 1 b).		
Priority acc. by Governing Council	 high	 medium	 low

Promotion through Outreach Resources

- UNIDROIT's principal means of promoting its *own* instruments and raising awareness of *transnational private law in general* are its research and outreach resources. For details, cf. *infra*, I 2 B.

International Protection of Cultural Property

- The Secretariat monitored and advised on implementation as well as co-organised and/or participated in seminars and conferences aimed at raising awareness of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects in Austria, Bosnia-Herzegovina, Italy, Jordan, Lebanon, Lithuania and Poland as well as at UNESCO's Intergovernmental Committee for the Promotion of the Return of Cultural Property to its Countries of Origin.
- As of 30 September 2007, the Convention had twenty-nine Contracting States.

Assessment of quality and effectiveness	Good.		
Staffing	0.30 officer.		
Funding	❖ staff: regular budget (Exp. Ch. 2, Ch. 3); ❖ participation in conferences: unfortunately limited to cases where expenses can be reimbursed by organisers.		

Principles of Transnational Civil Procedure

- In addition to the English and French versions of the ALI/UNIDROIT Principles, which have been published with Cambridge University Press, the black letter rules are now available in German and Turkish. Spanish and Russian versions are under preparation.
- In 2006, the PTCP were presented by the Secretary-General and experts from member States at seminars, conferences and workshops in Chile, Germany, Switzerland and the United States.

2. Non-legislative Activities

- *Strategic Objective N°2*: the further elaboration of the UNIDROIT research and information facilities as the world's leading source of knowledge and capability-building in the field of transnational private law.

- *Strategic Objective N°3*: the gradual and systematic conversion of hitherto stationary know-how, skills, research and legislative capabilities into pro-actively employed outreach resources.
- *Strategic Objective N°7*: a systematic and sustained effort to broaden the Organisation's representation in Africa, the Middle East and Asia, to fill gaps and revitalise dormant membership, and to guarantee a more regular presence and focused participation in other international fora.

A. Programme of Legal Co-operation

Research Scholarship Programme

• In 2007, 12 researchers from Chile, People's Republic of China, Egypt, Indonesia, Mozambique, Nigeria, Pakistan, Paraguay, Serbia, Uruguay and the Southern African Development Community (SADC) with different professional backgrounds (government officials, judges, attorneys, financial institutions, universities) carried out research on transnational private law and international economic law in the UNIDROIT Library.

Technical Assistance




• The Secretariat transmitted an amended version of a preliminary draft OHADA Uniform Act on contract law to the OHADA Permanent Secretariat. This draft as well as a draft on consumer contracts are awaiting vetting by national committees and adoption by the Council of Ministers. A high-level colloquium, organised by UNIDROIT, the University of Ouagadougou and OHADA will be held from 15 to 17 November 2007 in Ouagadougou (Burkina Faso). The conference with speakers from Benin, Burkina Faso, Cameroon, the Democratic Republic of Congo, Ghana, Ivory Coast, Mali and Senegal, OHADA, the African Development Bank, UNCITRAL, the ICC International Court of Arbitration as well as Belgium, Canada, China, Luxembourg and Switzerland is aiming at engaging the West African legal and academic communities as well as Governments and intergovernmental Organisations involved in law reform in Africa. It is funded by the Governments of Switzerland and Luxembourg, the Uniform Law Foundation and AISBL *Fonds Scientifique Jean Bastin*.

- For assistance given with respect to the implementation of the Cape Town Convention and protocols, cf. *supra* I 1 A and B.
- For assistance given with respect to the implementation of the Cultural Property Convention, cf. *supra* I 1 B.

Co-operation with Partner Organisations

- The Secretariat maintains close institutional co-operation links with a large number of Organisations. For details, cf. *infra* I B 3.
- In particular, UNIDROIT is a partner in a programme launched by the International Trade Centre (WTO/UNCTAD) aimed at assisting developing countries and transition economies in becoming familiar with instruments on transnational commercial law.

Assessment of quality and effectiveness	Good.
Benefits/ Beneficiaries	Effective dissemination of knowledge about UNIDROIT instruments and, generally, transnational private and commercial law. Networking, in particular with Governments and academic institutions in developing countries.

Staffing	0.80 officer (the remaining 20% of whose time is devoted to her remit UNIDROIT publications); 0.30 secretary.		
Funding	<ul style="list-style-type: none"> ❖ staff: regular budget (Exp. Ch. 2; Ch. 3); ❖ scholarships, in 2007: <ul style="list-style-type: none"> – € 10,000 regular budget (AG(60)6, Exp. Ch. 11); – € 3,450 extra-budgetary (private donations); technical assistance: <ul style="list-style-type: none"> – € 6,000 regular budget; – € 55,000 extra-budgetary contributions (Luxembourg; Switzerland); – € 20,000 private donations. 		
Priority acc. by Governing Council	 high	 medium	 low

B. Research and Outreach Resources

UNIDROIT Library

- The transfer of the catalogue entries to an electronic data base and the integration with data bases of other leading libraries is now almost complete;
- The Library's holdings increased by close to 2,000 titles. Significant donations from the Max-Planck-Institute (Hamburg) and a private donor are included in that figure.
- In addition to UNIDROIT scholarship recipients (cf. *supra*, 2 A), more than 2,400 users from 22 countries (Argentina, Australia, Austria, Belgium, Brazil, Chile, China, Finland, France, Germany, Hungary, Italy, Japan, Korea, Mexico, Nigeria, Portugal, the Russian Federation, Spain, Turkey, United Kingdom, United States of America) carried out research in the Library.


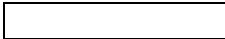
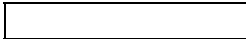
Assessment of quality and effectiveness	Good.
Benefits/ Beneficiaries	Visiting users, in particular recipients of research scholarships. To the extent that catalogue is already available on-line, Governments, researchers and other remote users.
Staffing	1.0 law librarian, 0.5 assistant (the remaining 50% of whose time is devoted of his remit IT assistance), 1.0 assistant librarian, 0.8 assistant librarian (the remaining 20% of whose time is devoted to usher's tasks), 0,2 secretary.
Funding	<ul style="list-style-type: none"> ❖ purchase of books and other costs: € 113,500, regular budget (Exp. Ch. 9); ❖ donations: worth € 60,000; ❖ staff: regular budget (Exp. Ch. 2; Ch. 3); ❖ assistance by 3 volunteers from ELSA (European Law Student Association).

Priority acc. by Governing Council	 high	 medium	 low
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Publications

- The flagship, *Uniform Law Review/Revue de droit uniforme* is the only specialised journal covering transnational private law worldwide. It contains the following sections: Articles, International Activities, Texts and Implementation of Uniform Law Instruments, Bibliographical Information. Apart from sister Organisations and Regional Organisations, UNIDROIT's own activities are extensively covered, thereby turning it into an essential tool for ensuring the dissemination of information on its work. The *Review* is distributed free of charge to a vast number of institutions and individuals (including depository libraries in member States). Exchange arrangements with other law journals help maintain the Library's stocks. In deference to demands by the Institute's financial organs the format was slightly modified and the *Review* is produced at lower cost.

- Other publications include the second edition of the UNIDROIT Guide to International Master Franchise Arrangements.


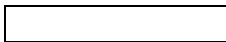
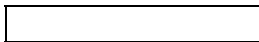
Assessment of quality and effectiveness	Good.
Benefits/ Beneficiaries	Cf. <i>supra</i> , introductory text.
Staffing	0.20 officer; 1.2 editorial secretary; occasional contributions from other officers.
Funding	<ul style="list-style-type: none"> ❖ expenditure: <ul style="list-style-type: none"> - printing: € 31,500 (Exp. Ch. 5); - postage: € 13,000 (Exp. Ch. 6 § 3); ❖ receipts: € 34,500 (Receipts Ch. 2 § 3); ❖ staff: regular budget.
Priority acc. by Governing Council	 high  medium  low

Website and Depository Libraries

- The UNIDROIT Internet website continues to be an extremely effective means of promoting the Organisation's activities and its instruments. The content of the site has been substantially enlarged and new features facilitating searches were added. The layout is currently being revised. Due to lack of funding, however, it has necessarily continued to be a low-cost site so that other features common to most modern commercial as well as governmental websites are not available.

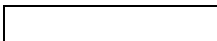
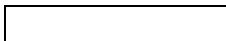

- To date 46 libraries have been designated by member States to serve as depositories for UNIDROIT documentation and publications.

Assessment of quality and effectiveness	Good.
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Benefits/ Beneficiaries	Governments, researchers and other remote users wishing to access UNIDROIT documents and other resources.		
Staffing	0.40 officer (the remaining 60% of whose time is devoted to the Principles of International Commercial Contracts, <i>supra</i> , I 1 a); assistance by another officer with translation into French.		
Funding	<ul style="list-style-type: none"> ❖ staff: regular budget (Exp. Ch. 2; Ch. 3); ❖ technical support, software: regular budget (Exp. Ch. 2§2; Ch. 7§5). 		
Priority acc. by Governing Council	 high	 medium	 low

UNILAW Database

- The number of cases on the 1956 Convention on Contracts for the International Carriage of Goods by Road (CMR) fully treated and visible to the public increased by 25% over the last year but are still few (369). Another 1,000 are awaiting processing.
- The texts of the 2001 Cape Town Convention, the Aircraft and Rail Protocols, the 1929 Warsaw Convention on Carriage by air and its successor, the 1999 Montreal Convention, the 1924 Brussels Convention on Bills of Lading and the Brussels Protocol, the 1952 Brussels Convention on the Arrest of Sea-Going Ships as well as the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, have been inserted. Preparations for inserting case law (some 980 cases have been collected) and bibliography are underway.

Assessment of quality and effectiveness	Intrinsic quality good; effectiveness still impossible to assess.		
Benefits/ Beneficiaries	Courts and arbitrators called upon to interpret and apply international uniform law; counsel representing parties in litigation and arbitration; researchers; Governments and legislators working with international uniform law, in particular in drafting implementation legislation.		
Staffing	0.4 officer; part-time assistant for document processing; the officer had assistance from four interns for a total of 15 months.		
Funding	<ul style="list-style-type: none"> ❖ staff: <ul style="list-style-type: none"> - officer regular budget (Exp. Ch. 2; Ch. 3); - part-time assistant and interns extra-budgetary funding (Uniform Law Foundation); ❖ website: € 1,000 extra-budgetary funding (Uniform Law Foundation); ❖ receipts: € 5,000 (reimbursement by the Uniform Law Foundation for services rendered by officer). 		
Priority acc. by Governing Council	 high	 medium	 low

3. Membership – Relations with Governments – Institutional Co-operation - Visibility

- *Strategic Objective N°7*: a systematic and sustained effort to broaden the Organisation's representation in Africa, the Middle East and Asia, to fill gaps and re-vitalise dormant membership, and to guarantee a more regular presence and focused participation in other international fora.
- The Republic of Lithuania deposited its instrument of accession, thereby becoming the 61st member State. Ukraine announced its accession as forthcoming.
- The Secretary-General continued discussions with South East-Asian Governments. Following a seminar and high-level meetings in Jakarta, an inter-ministerial committee recommended that Indonesia accede to the UNIDROIT Statute. A high-level delegation announced, on the occasion of its depositing the instruments of accession of the Cape Town Convention and the Aircraft Protocol that the Parliament will be seized shortly of the matter.
- Exploratory contacts were established with the Embassy of the Sultanate of Oman and the Embassy of the Kingdom of Saudi Arabia in Italy. In this connection, an unofficial Arabic version of the UNIDROIT Statute was provided by Professors Omaia Elwan (Heidelberg/Cairo) and Hossam Loutfi (Cairo). It is accessible on the UNIDROIT website.
- Intensive efforts to re-establish communication with Bolivia continued and received the pro-active support of the President of the General Assembly, Ambassador Gabriel Valdés Subercaseaux (Chile).
- Following an invitation by the Government of Germany, the Secretary-General participated in high-level meetings of legal experts from lusophone countries and made presentations on UNIDROIT work designed to strengthen participation from those countries in the Institute's activities. Representatives from Angola, Brazil, Cape Verde, East Timor, Mozambique and Portugal attended.
- In 2007, the Secretary-General and members of the Secretariat made official visits to, lectured or participated in seminars in: Austria, Bosnia-Herzegovina, Burkina Faso, Canada, Chile, China, France, Germany, Italy, Japan, Jordan, Panama, Poland, South Africa, Turkey, United Kingdom, United States of America.
- During the past 12 months, UNIDROIT welcomed official visitors, officials and interns on secondment from the following countries: Congo, France, Germany, Indonesia, Latvia, New Zealand, Nigeria, Republic of Korea, Vietnam
- In 2007, the Secretariat paid visits to or participated in meetings of the following governmental and non-governmental international Organisations: African Union, Council of Europe, European Union, Hague Conference on Private International Law, International Chamber of Commerce, ICPO-Interpol, International Finance Corporation, International Trade Centre (WTO/UNCTAD), UNCITRAL, UNESCO, United Nations Committee on the Peaceful Uses of Outer Space, World Bank, Xiamen Academy of International Law.
- Of particular importance is the now well-established **tri-partite co-operation with the other private-law formulating Organisations**, i.e. the Hague Conference and UNCITRAL. It is based on four pillars: (1) annual co-ordination meetings; (2) "speaking with one voice" with other Organisations such as WTO, the World Bank and IMF; (3) actively participating in each others work; (4) exploring ways to co-sponsor seminars and co-author publications on the use of instruments of the three Organisations for domestic purposes, in particular in developing countries.

4. Governance and Administration

- *Strategic Objective N°4*: designing communication, decision-making and resourcing processes capable of ensuring a comprehensive assessment of potential interests, costs and benefits of a State's participation in any given project, on the one hand, and the predictable and sustained provision of adequate resources, on the other hand.
- *Strategic Objective N°8*: to establish up-to-date and unified procedures of electronic document management and record-keeping.
- *Strategic Objective N°10*: to achieve autonomy with respect to the provision and maintenance of information technology by retaining in-house IT-expertise.
- *Strategic Objective N°12*: the development of communication techniques that will facilitate the constant flow of all relevant information as well as reliable and prompt response.

• Substantial progress in reforming techniques and enhancing efficiency of administrative routine is predicated primarily on the **presence** of a knowledgeable and **innovative chief administrator** in the position of **Deputy Secretary-General**. Encouraged by the UK's extra-ordinary contribution of £ 50,000 for the third year running, the Permanent Committee at its 108th session, recommended that the Governing Council appoint Professor Alessandra Zanobetti as Deputy Secretary-General for the remainder of the statutory five-year period, i.e. until 31 December 2010. This recommendation, if acted upon by the Council at its 87th session, will place the Secretariat in a position to fully implement its action plan.

• The Secretariat is in the process of drawing up plans for a new IT-based system of office document management and archive. The Secretariat has consulted with other international Organisations and will in all likelihood opt for a low-cost solution employing off-the-shelf software.

• Due to lack of funds no progress has yet been made with respect to upgrading IT-expertise, equipment, software and server quality.

II. Planning for 2008

1. Legislative Activities including Implementation and Promotion of Instruments

A. Work in Progress

Principles of International Commercial Contracts

• A third session of the Working Group will be held from 26 to 30 May 2008. The Reporters for the five chapters will meet for a drafting session to be held, at the invitation of the Max Planck Institute, in March 2008 in Hamburg (Germany).

• Finalisation of the translation into Arabic, Portuguese, Slovak, Thai and Turkish is expected for 2008.

Funding	<ul style="list-style-type: none"> ❖ translation into Arabic: € 11,000, subsidised from the regular budget (amortized with the sale of 160/200 copies) (Exp. Ch. 2.2; Ch. 5); ❖ meetings in 2008: € 40,000 regular budget (Exp. Ch 1 § 5).
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International Interests in Mobile Equipment

Following the special joint Government/industry meeting, held in New York on 19 and 20 June 2007, a newly formed Steering Committee is expected to assist the Secretariat in working towards a third session of the Committee of governmental experts in the first half of 2008.

Draft Convention on Intermediated Securities

- A fourth session of the Committee of governmental experts was held from 21 to 25 May 2007. The Governing Council has approved the current text, and the draft Convention will be laid before a Diplomatic Conference to be held, at the invitation of the Government of Switzerland, from 1 to 13 September 2008 in Geneva.

Staffing / Funding

- ❖ Funding of the officer who joined the Secretariat as of May 2007, acted as the Committee's secretary at its fourth session and who will continue to administer the project until completion: only partly secured from private donations.

B. Follow-up of adopted UNIDROIT Instruments: Promotion, Implementation, Monitoring

Depositary Functions

- Following the example of the 2001 diplomatic Conference in Cape Town, the diplomatic Conference for the Rail Protocol mandated UNIDROIT to assume the depositary functions under that treaty as well. In all likelihood the draft Space Protocol and any further protocol will make provision to the same effect (cf. also Articles 47-62 of the Convention). As will be recalled, in 2001 the Governments of Italy and South Africa urged UNIDROIT to assume the depositary functions.

- The Secretariat's experience with those Governments that are acting as depositaries for recent conventions adopted under the Institute's auspices would appear to confirm that Governments are not entirely happy with having shouldered that burden and that they would, generally and in cases where the United Nations are not in a position to attend to the depositary functions, prefer intergovernmental Organisations to act as depositaries for treaties elaborated under their auspices.

- In accordance with paragraph 69 of the Strategic Plan (C.D. (83) 6) provision might therefore be made for UNIDROIT to assume the depositary functions under all future UNIDROIT Conventions. On the other hand, both the Council, at its 86th session, and some Governments recommended caution in this regard.

Staffing / Funding

- ❖ Officer in charge of the depositary function:
 - extra-budgetary funding ran out in August 2007;
 - in 2008, regular budget and in part private donation.

2. Non-legislative Activities

- With respect to the research and outreach resources in general, reference is made to the respective project-related documents prepared for the 86th session of the Governing Council C.D. (86) 13 – C.D. (86) 15.

- With respect to a proposed initiative which would meet the criteria of a technical assistance project, reference is made to the item "membership – relations with Governments", *infra* II 3.

3. Membership – Relationship with Governments – Institutional Co-operation - Visibility

- In line with efforts made in the past and indications of interest received, the key target areas for broadening the Institute's membership will be, firstly, Southeast Asia and the Pacific and, secondly, the Middle East and selected African countries.

- Following up on unofficial soundings from the Government of Vietnam and an official request submitted by the Government of Indonesia, in 2006, the Secretariat recommended and the Council approved, in principle, that a special programme "**ASEAN Initiative**" be launched and carried out in parallel with the triennial Work Programme. In light of the far advanced discussions with the Government of Indonesia (cf. *supra*, I 3) it was decided that implementation of that project might best be achieved in a two-step approach:

- First, organisation of a two day capacity-building workshop to be held in 2007 in Indonesia. The principal target group would be Indonesian Government officials tasked with implementing transnational private-law instruments domestically as well as judges seised of transnational commercial litigation. As suggested by the Government, a few delegates from neighbouring countries could be invited to that workshop and Indonesia, UNIDROIT and UNIDROIT member States with special interests in Indonesia and the Asia-Pacific region" might join forces to act as facilitators of an ever broader involvement of those countries in UNIDROIT activities. The Government mentioned explicitly Australia, China, India, Japan, Korea and the Netherlands.

- Second, resuming and more systematically building on previous high-level contacts between the Secretariat and the Governments of Malaysia, Singapore, Thailand, and Vietnam with a medium-term target of organising a seminar on transnational commercial law and its role for good governance and economic development in member States of the *Association of South-East-Asian-Nations (ASEAN)**.

Staffing	Presenters and instructors for proposed seminar and workshop partly UNIDROIT officers, partly experts from supporting member States, partly from host and other target States.
Funding	<ul style="list-style-type: none"> ❖ Indonesia workshop: while host State would provide local hospitality, travel expenses for 3-5 UNIDROIT and outside experts would need to be covered by extra-budgetary contributions (estimate: not in excess of € 10,000). ❖ Further steps in "ASEAN Initiative": to be assessed.

- The Government of the Netherlands has pledged funding of the participation of two experts in the capacity-building workshop. Justice James Allsop of the Federal Court of Australia has indicated his preparedness to participate as instructor in the workshop. The Government of Korea indicated that best efforts would be made to make an extra-budgetary contribution towards the costs for the organisation of the seminar. Mr Hosokawa (member of the Governing Council) indicated that an as yet to be identified Japanese expert would be made available for the workshop. The Government of the People's Republic of China indicated that an application for funding in 2007 or 2008 would be considered favourably. In May 2007, the Government of Indonesia advised that, for practical reasons, the capacity-building had to be postponed and that it would revert to the UNIDROIT Secretariat at a later point in time with a view to identifying a mutually convenient date and format.

* Member States: Brunei Darussalam, Cambodia, Indonesia, Lao People's Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand, Vietnam.

4. Governance and Administration

Secretariat

- Following the assessment of the current situation and with some delay (cf. *supra* I 4), a plan is being drawn up for the gradual upgrade of electronic *document management, keeping of records and archives* and other *administrative procedures* (cf. Strategic Objectives No. 8 and 9).
- With respect to staff, the situation which in 2003 by common consent was characterised as severe understaffing in categories A (professional/ university degree) and B (administrative/ secondary or higher education) has slightly improved in terms of *units* of category A and category B staff even if the projections made in 2003 did not materialise. Conversely, the projected decrease of category C (other support) units was achieved.

	2003	2006 proj.	2007 eff.
Category A	8 (+ 1 cons.)	9 (+ 1 cons.)	9 (+ 1 cons.)
Category B	7	10.5	9
Category C	5	4	3

It must be emphasised, however, that three out of nine category A staff are *hors cadre*, i.e. not integrated in the Institute's organisational chart: one of the Deputy Secretaries-General; secondly, the officer tasked with depositary functions under the Cape Town Convention and its protocols and, thirdly, the officer in charge of the draft Convention on Intermediated Securities. All three are funded by extra-statutory contributions or private donations. In light of the foregoing it would appear difficult to assume that the projections made for 2010/2012 (UNIDROIT 2004, C.D. (83)6 para. 80 et seq.) are realistic.

- A *staff development plan* will be needed to establish how to achieve the objectives set forth in paragraphs 75-87 of the Strategic Plan, consistent selection and hiring procedures, and up-to-date personnel management generally. For this to materialise and to bear fruit over time, the primary objective must be the full integration of the Deputy Secretary-General (Chief Administrator) in the organisational structure of the Institute and the resumption of permanent funding under the regular budget. Generous extra-statutory contributions of three times £ 50,000 (= € 74,000) for 2006/2007 and the next financial year made by the UK Government must be matched by the collectivity of member States by contributing their share.

- Similarly, the commitment by member States, placed on record, to integrate the officer tasked with the depositary functions under the adopted and future Cape Town instruments and to fund that position under the regular budget must be honoured.

Funding	<ul style="list-style-type: none"> ❖ Both positions under regular budget in 2008 (with extra-statutory contribution of UK Government for the post of Deputy Secretary-General); ❖ Categorisation (A 6 and A 2.4 respectively) to be envisaged for 2008 subject to availability of funding under regular budget or from extra-budgetary contributions.
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General Assembly

- Following the pattern of the Assembly's session since 2002, the highest organ of the Institute will in the future regularly be apprised of the nature and the state of work on one of the legislative projects. The Secretariat would submit, however, that the plan to seize the General Assembly of discussing and adopting the Model Law on leasing at an extra-ordinary session in early 2008 may not remain exceptional. In appropriate cases greater and deeper involvement of member States' Governments in the substance of the Institute's work may be beneficial and enhance expeditiousness of work. As will be recalled, Governments and members of the Council discussed the potential of such enhanced participation at the Brainstorming Sessions (cf. UNIDROIT 2002 IBS – Doc. 1 paragraphs 37-43, UNIDROIT 2003 IBS – Doc. 2 paragraphs 5, 6).

5. Advance Planning for Work Programme 2009-2011

- Governments will continue to demand that priorities be established and respected over the three-year-period, both as regards work to be rolled over from the 2009-2011 period and new items. The process of analysing new proposals must, therefore, be highly selective.

- Against the background of expectations raised in many quarters, the project publicised under the working title Principles and Rules capable of enhancing trading in securities in emerging markets and enjoying already high-priority status should be taken on by one or more study group(s) as early as practical.

- As regards new work, only projects that UNIDROIT can carry out better than other Organisations ought to be selected. On criteria, cf. the Secretary-General's reflections in Unif. L. Rev. 2006, 135-141.

- The Secretariat will approach Governments, international Organisations, industry and the legal professions, the Institutes' Correspondents and other stakeholders in December 2007/January 2008 with a view to collecting their indications and proposals.

- The Work Programme will have to be commensurate to the budgetary means and the staff resources Governments are envisaging to place at the Organisation's disposal over the next triennium.

III. Summary

1. With respect to the elaboration of uniform law instruments, the objectives set forth in the Strategic Plan (Nos. 1, 6 and 11) have been achieved both as regards quality and the observance of timelines. This general assessment does not apply to preliminary draft Space Protocol to the Cape Town Convention. Significant delay in advancing the latter is to be attributed mainly to the responsible officer's assuming administrative tasks as Deputy Secretary-General *ad interim*. This has been remedied by appropriate organisational measures which are currently being implemented.

2. As regards the priority grade accorded by the Governing Council, the Secretariat wishes to draw the General Assembly's attention to the fact that certain projects, while included by the Assembly in the current triennial Work Programme, are either on hold (e.g. emerging securities markets) or not yet shown in this update of the Strategic Plan.

3. The unconditionally positive assessment applies equally to the pursuit of the Strategic Objectives Nos. 2, 3 and 7 targeted by the Institute's non-legislative activities. As regards broadening the Institute's membership in the Asia Pacific region, a detailed proposal is submitted and requires action as soon as the Government that had previously expressed its desire to work as facilitator indicates its readiness to proceed. As regards membership in the Middle East, encouraging signals have been received from the Kingdom of Saudi Arabia and the Sultanate of Oman. With respect to Africa, the colloquium for the presentation of the draft OHADA uniform act on contracts will have prepared the ground for effective follow-up action.

4. With respect to the review of internal administrative processes and infrastructure, the long-time absence of an experienced and dedicated administrator permitted only minimal progress. It is hoped that this transition period has drawn to a close and that the now re-completed organisational structure of the Secretariat will allow to focus on the Strategic Objectives Nos. 4, 8, 9 and 12 and to take appropriate action.

5. In a similar vein, more fully achieving Strategic Objective No. 11 (diligent carrying out depositary functions, promotion, assisting implementation, and monitoring the use of adopted instruments) is predicated upon staff resources.

6. Conversely, achieving Strategic Objective No. 10 (autonomy with respect to the provision and maintenance of information technology) requires additional capital investment as well as staff.