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**Item No. 4 on the Agenda: 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</i>
<i>Action to be taken</i>	<i>See) I 1B (p.5/6); II 1 B (p.12); II 3 (p.12); II 4 (p.14); II 5 (p.15)</i>
<i>Related documents</i>	<ul style="list-style-type: none"><li>• <i>Strategic Plan – Horizon 2016, UNIDROIT 2004 C.D. (83) 6</i></li><li>• <i>Documents for this session, UNIDROIT 2007 C.D. (86) 2 and C.D. (86) 5 to 19</i></li><li>• <i>UNIDROIT 2007 F.C.S.C. (107) 2</i></li><li>• <i>UNIDROIT 2002 IBS Doc. 1 and 2</i></li></ul>

<b>Priority</b>			
	high	medium	low

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## III. Summary

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## I. IMPLEMENTATION IN 2006/2007

### 1. 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 first session in Rome from 29 May to 1 June 2006. On the basis of a preliminary study prepared by the UNIDROIT Secretariat (UNIDROIT 2006 – Study L – DOC. 99), the Group proceeded to an in-depth discussion of the five topics suggested for inclusion in the new edition of the Principles and appointed R. Zimmermann Rapporteur on the topic of unwinding of failed contracts, M.P. Furmston on the topic of illegality, M. Fontaine on the topic of plurality of obligors and of obligees, B. Fauvarque-Cosson on the topic of conditions and F. Dessemontet on the topic of termination of long-term contracts for cause. The Rapporteurs were invited to prepare position papers on their respective topics for discussion at the Group's next session in June 2007.

- In addition to the English, French and Italian versions of the UNIDROIT Principles 2004, integral versions are available in Spanish, Chinese, Korean, Romanian and Vietnamese. The black letter rules are available in German, Russian and Turkish.

- The PICC were presented by members of the Secretariat and discussed at seminars and conferences in Brazil, France, Germany, Italy, Serbia, Switzerland and the United States of America.

<b>Assessment of progress</b>	good, on time
<b>Staffing</b>	1.0 consultant, 0.5 officer (the remaining 50% of whose time is devoted to the website, one publication, and the depository libraries)
<b>Funding</b>	in 2006, on regular budget: ❖ staff (Exp. Ch. 2; Ch. 3) ❖ meeting: € 38,000 (Exp. Ch. 1 § 5)

### *International Interests in Mobile Equipment*

#### (a) Cape Town Convention/Aircraft Protocol

- The Convention and the Aircraft Protocol are now in force or will shortly enter into force in fourteen States: Afghanistan, Angola, Colombia, Ethiopia, Ireland, Kenya, Malaysia, Nigeria, Oman, Pakistan, Panama, Senegal, South Africa, United States of America.

- Assistance was provided for the ongoing implementation process in another seven 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 Italy, Nigeria, Switzerland, Togo, the United Kingdom and the United States of America.
- The editing of the Acts and Proceedings of the Diplomatic Conference held in Cape Town was finalised. The publication is now available.

**(b) Draft Rail Protocol**

- The Protocol was adopted by the Diplomatic Conference held in Luxembourg from 12 to 23 February 2007. For details, cf. C.D. (86) 8(a).

**(c) Preliminary draft Space Protocol**

- Due to lack of resources the Secretariat's activities regarding this project were seriously curtailed. Significant efforts are under way to get project back on track. For details, cf. C.D. (86) 8(c).

<b>Assessment of Progress</b>	Convention and Aircraft Protocol good. Rail Protocol good. Preliminary draft Space Protocol unsatisfactory.
<b>Staffing</b>	2.25 officers (1.25 regular budget; 1.0 officer in charge of depositary function on extra-statutory contributions); clerical support regular budget
<b>Funding</b>	in 2006: ❖ <b>Rail Protocol:</b> preparation of Diplomatic Conference, regular budget – printing of documents, postage: € 2,225 (Exp. Ch. 6 § 6); – official journeys € 2,500 (Exp. Ch. 1 § 6) ❖ <b>Preliminary draft Space Protocol:</b> – meetings and official journeys funded by the private sector ❖ <b>Acts &amp; Proceedings Cape Town Diplomatic Conference:</b> – expenditure € 19,000 (regular budget, Exp. Ch. 5); – receipts: € 6,100 included in the receipts of Publications, see below.

***Transactions on Transnational and Connected Capital Markets***

**(a) Preliminary Draft Convention on Intermediated Securities**

- Three sessions of a Committee of governmental experts were held. The sessions were attended by a total of 38 delegations from member States, two non-member States and 15 observers representing intergovernmental and non-governmental Organisations.
- Ad-hoc working groups on specific problem areas worked between the two sessions, and one-day seminars were held in Beijing (China), Berlin (Germany) and Madrid (Spain).

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

- In accordance with decisions by the Council this project is on hold until such time as resources will be available.

<b>Assessment of Progress</b>	good, on time
<b>Staffing</b>	1.0 officer (private-sector funding of post for managing officer); 1.0 associate officer ( <i>volontaire international</i> , seconded by member State Government); 1.0 secretary and clerical support (regular budget). Both officers to be replaced
<b>Funding</b>	in 2006: ❖ 2 <sup>nd</sup> and 3 <sup>rd</sup> sessions CGE, regular budget: – € 38,000: meeting facilities (Exp. Ch. 1 § 5) – € 22,000: interpreters (Exp. Ch. 6 § 5) ❖ official journeys: € 16,000 (regular budget, Exp. Ch. 1 § 6)

#### ***Model Law on Leasing***

- Three sessions of the Advisory Board were held and preparations are under way for a first session of a Committee of governmental experts to be held from 7 to 10 May 2007 in Johannesburg (South Africa).

<b>Assessment of progress</b>	good, on time
<b>Staffing</b>	0.50 officer; clerical support
<b>Funding</b>	0.50 officer (preparation of CGE) and clerical support regular budget in 2006: ❖ <b>meetings:</b> € 1,500 (interpreters) on regular budget (Exp. Ch. 6 § 5) ❖ <b>official journeys:</b> funded by private sector

#### **B. Follow-up on adopted UNIDROIT Instruments: Promotion, Implementation, Monitoring**

##### ***Depositary Functions under the Cape Town Convention***

- Review of draft ratification and accession instruments; advice on implementation; co-ordination with Supervisory Authority (ICAO Council) and International Registry (Aviareto).

<b>Assessment of quality and effectiveness</b>	good
<b>Staffing / Funding</b>	1.0 officer ❖ extra-budgetary funding member States runs out 31 August 2007 ❖ follow-up funding under regular budget 2007 until end of year (see also <i>infra</i> , II 1 b)

### ***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 participated in seminars and conferences aimed at raising awareness of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects in Albania, Bosnia-Herzegovina, F.Y.R. of Macedonia, Mexico and South Africa.

- As of 31 December 2006, the Convention had twenty-eight Contracting States.

<b>Assessment of quality and effectiveness</b>	good
<b>Staffing</b>	0.20 officer (regular budget)
<b>Funding</b>	in 2006: ❖ official journeys: € 1,200 (regular budget, Exp. Ch. 1 § 6) ❖ other journeys, meetings and conferences funded by the organising institutions

### ***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.

- The PTCP were presented by the Secretary-General and experts from member States at seminars, conferences and workshops in Germany, Latvia and Mexico.

## **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 2006, 14 researchers from Argentina, Belarus, Bulgaria, Cameroon, Chile, China, Morocco, Poland, the Russian Federation, Tunisia, Turkey and Uruguay 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 worked actively towards organising a high-level conference on the preliminary draft OHADA Uniform Act on contract law in co-operation with stakeholders in Africa, Europe and Canada.

- 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. The Secretariat was represented at a seminar devoted to these topics held in Bucharest (Romania). The Secretariat also participated in a seminar organised by the African Union (AU) in Tshwane (South Africa).

<b>Assessment of quality and effectiveness</b>	good
<b>Staffing</b>	0.20 officer (the remaining 80% of whose time is devoted to her remit UNIDROIT publications); 0.30 secretary
<b>Funding</b>	budget for 2007: ❖ <b>scholarships:</b> € 10,000 regular budget (Exp. Ch. 11); € 18,186 extra-budgetary contributions (People's Republic of China; Republic of Korea; Spain) ; € 12,861 (private donations) ❖ <b>technical assistance:</b> € 2,100 (Switzerland, for the OHADA project); ❖ <b>staff:</b> regular budget

## 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 will soon be completed;

- The Library's holdings increased by close to 1,200 titles. Significant donations from the UK Government, the Max-Planck-Institute (Hamburg), the University of Lucerne (Switzerland) and a private donor are included in that figure.

- In addition to UNIDROIT scholarship recipients (cf. *supra*, 2 A), more than 3,300 users from 30 countries carried out research in the Library.

<b>Assessment of quality and effectiveness</b>	good
<b>Staffing</b>	1.0 law librarian, 0.5 assistant (the remaining 50% of whose time is devoted of his remit IT assistance), 1.0 library assistant, 0.8 library assistant (the remaining 20% of whose time is devoted to usher's tasks), 0,2 secretary
<b>Funding</b>	<p><i>in 2006:</i></p> <ul style="list-style-type: none"> <li>❖ purchase of books and other costs: € 113,500, regular budget (Exp. Ch. 9);</li> <li>❖ donations worth € 60,000</li> <li>❖ staff: regular budget (Exp. Ch. 2; Ch. 3);</li> <li>❖ assistance by 18 volunteers from ELSA (European Law Student Association)</li> </ul> <p><i>in 2007:</i></p> <ul style="list-style-type: none"> <li>❖ purchase of books and other costs: € 113,500, regular budget (Exp. Ch. 9);</li> <li>❖ staff: regular budget (Exp. Ch. 2; Ch. 3)</li> </ul>

### ***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, Case Law, 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 2006 volume contains 951 pages. 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 helps maintain the Library's stocks.

- Other publications include the *UNIDROIT Proceedings and Papers* in a new format, a cumulative edition of the *Proceedings* 1997-2005 on CD-ROM, and a Spanish translation of the *Model Franchise Disclosure Law* which was posted on the website.

<b>Assessment of quality and effectiveness</b>	good
<b>Staffing</b>	0.80 officer (the remaining 20% of whose time is devoted to legal co-operation); 1.2 editorial secretary; occasional contributions from other officers

<b>Funding</b>	<p><i>in 2006, regular budget:</i></p> <ul style="list-style-type: none"> <li>❖ <b>expenditure:</b> <ul style="list-style-type: none"> <li>– printing: € 35,000 (Exp. Ch. 5)</li> <li>– postage: € 9,000 (Exp. Ch. 6 § 3)</li> </ul> </li> <li>❖ <b>receipts:</b> € 58,546 (Receipts Ch. 2 § 3)</li> </ul> <p><i>in 2007, regular budget:</i></p> <ul style="list-style-type: none"> <li>❖ <b>expenditure:</b> <ul style="list-style-type: none"> <li>– printing: € 31,500 (Exp. Ch. 5)</li> <li>– postage: € 9,000 (Exp. Ch. 6 § 3)</li> </ul> </li> <li>❖ <b>receipts:</b> € 71,546 (Receipts Ch. 2 § 3)</li> </ul>
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### ***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. 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.

<b>Assessment of quality and effectiveness</b>	good
<b>Staffing</b>	0.50 officer (the remaining 50% 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
<b>Funding</b>	regular budget

### ***UNILAW Database***

- Number of cases on the 1956 Convention on Contracts for the International Carriage of Goods by Road (CMR) visible to the public are still few (369). Another 1,301 are awaiting processing.
- The texts of the 2001 Cape Town Convention and the Aircraft Protocol, the 1929 Warsaw Convention on Carriage by air and its successor, the 1999 Montreal Convention, have been inserted. Preparations for inserting case law and bibliography are underway.

<b>Assessment of quality and effectiveness</b>	intrinsic quality good; progress too slow; effectiveness still impossible to assess
<b>Staffing</b>	0.4 officer; part-time assistant for document processing
<b>Funding</b>	<ul style="list-style-type: none"> <li>❖ officer: regular budget</li> <li>❖ part-time assistant: extra-budgetary funding (private donation)</li> </ul>

### 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 revitalise 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 61<sup>st</sup> member State. Ukraine announced its accession as forthcoming.
- The Secretary-General continued discussions with five 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 final decision may be dependent on another *in loco* event (cf. *infra*, II, 3).
- A first exploratory contact was established with the Embassy of the Sultanate of Oman in Italy at the embassy's request.
- The African seminar held in preparation of the Diplomatic Conference for the adoption of the Rail Protocol provided an opportunity for the Secretary-General to meet the Prime Minister and other cabinet members in Lomé (Togo). An interest to accede to the UNIDROIT Statute was repeatedly expressed.
- Intensive efforts to re-establish communication with Bolivia may bear fruit. While repeated approaches through the Embassy of Bolivia in Italy failed, efforts by H.E. Mr Gabriel Valdés Subercaseaux, Ambassador of Chile and President of the General Assembly, will, hopefully, produce results.
- During the past 12 months, the Secretary-General and members of the Secretariat made official visits to, lectured or participated in seminars in: Austria, Belgium, Brazil, France, Germany, Hungary, Italy, Latvia, Lithuania, the Former Yugoslav Republic of Macedonia, Serbia, Spain, Switzerland, Thailand, Togo, United Kingdom, United States of America.
- During the past 12 months, UNIDROIT welcomed official visitors, officials and interns on secondment from the following countries: Argentina, France, Latvia, Lebanon, Republic of Korea, Russian Federation, Spain, United Kingdom.
- In 2006, the Secretariat paid visits to or participated in meetings of the following governmental and non-governmental international Organisations: Asian-Pacific Economic Cooperation (APEC), European Union, Hague Conference on Private International Law, International Chamber of Commerce, ICPO-Interpol, International Finance Corporation, International Monetary Fund, International Trade Centre (WTO/UNCTAD), London Court of International Arbitration, Organization of American States, UNCITRAL, UNESCO, United Nations Economic Commission for Europe, World Bank.
- 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**. Only as from 1 January 2006, the date of the arrival of Professor Alessandra Zanobetti, was the Secretariat in a position to draw up plans for appropriate action in this regard.
  - Progress was made in designing more readable documents, initially for the 59<sup>th</sup> session of the General Assembly held on 1 December 2005, thereafter for the 105<sup>th</sup> session of the Sub-Committee of the Finance Committee on 23 March 2006 and now for the 85<sup>th</sup> and 86<sup>th</sup> sessions of the Governing Council.
  - 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 2007/2008 AND MIDTERM

### 1. LEGISLATIVE ACTIVITIES INCLUDING IMPLEMENTATION AND PROMOTION OF INSTRUMENTS

#### A. Work in Progress

##### *Principles of International Commercial Contracts*

- The second meeting of the new Working Group will be held from 4 to 8 June 2007. A record number of 15 arbitral institutions and other organisations with special expertise will attend as observers.
- Agreements for the translation into Arabic, Farsi, Portuguese, Russian, Slovak, Thai and Turkish have been signed.

<b>Staffing</b>	it is expected that preparation will require the publication officer to devote some time
<b>Funding</b>	<ul style="list-style-type: none"> <li>❖ <b>translation into Arabic</b>: € 11,000, subsidised from the regular budget (amortized with the sale of 160/200 copies)</li> <li>❖ <b>meetings in 2007</b>: € 38,000 regular budget (Exp. Ch. 1 § 5)</li> </ul>

### *International Interests in Mobile Equipment*

- The intergovernmental consultation process regarding the preliminary draft Space Protocol should be sufficiently advanced during 2007/8 to plan for its adoption by a diplomatic Conference in 2008 or 2009.

### *Preliminary Draft Convention on Intermediated Securities*

- A fourth session of the Committee of governmental experts will be held from 21 to 25 May 2007. It is envisaged to hold a diplomatic Conference for the text's adoption in early 2008. Successful completion is of **strategic importance** since this is a **test case** for Governments' being prepared and able to harmonise substantive law regarding transactions in securities. If successful, UNIDROIT's unique potential to venture into the most demanding areas of commercial law would have been proven once again.

<b>Staffing / Funding</b>	<ul style="list-style-type: none"> <li>❖ both leading and assisting officers funded by the private sector and seconded from member State Government respectively</li> <li>❖ funding running out end of 2007</li> <li>❖ clerical support regular budget</li> <li>❖ <b>fourth session CGE</b>, on regular budget:             <ul style="list-style-type: none"> <li>– € 15,000: meeting facilities (Exp. Ch. 1 § 5)</li> <li>– € 6,000: interpreters (Exp. Ch. 6 § 5)</li> </ul> </li> </ul>
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## **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 that adopted the Rail Protocol on 23 February 2007 decided to confer the depositary functions on UNIDROIT (Article XXXIV). It is expected that the same decision will be made with respect to the draft Space Protocol.

- 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, 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, the Council, at its 85<sup>th</sup> session, recommended caution in this regard.

<b>Staffing / Funding</b>	<p>if the Institute were to make a decision as envisaged in C.D. (83)6, funding under the regular budget would be needed for the position of a treaty officer</p>
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## **2. NON-LEGISLATIVE ACTIVITIES**

- With respect to the research and outreach resources in general, reference is made to the respective project-related documents 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, the Secretariat would recommend that a special programme “**ASEAN Initiative**” be launched immediately and carried out in parallel with the triennial Work Programme 2008/2010. In light of the far advanced discussions with the Government of Indonesia (cf. *supra*, I 3) implementation of that project might best be achieved in a two-step approach:

- Organisation of a two day capacity-building workshop to be held in Indonesia. The principal target group would be Indonesian Government officials tasked with implementing transnational private-law instruments domestically as well as judges seized 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 China, India, Japan, Korea and the Netherlands.

- 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)*\*.

<b>Staffing</b>	presenters and instructors for proposed seminar and workshop partly UNIDROIT officers, partly experts from supporting member States, partly from host and other target States
<b>Funding</b>	<ul style="list-style-type: none"> <li>❖ <b>Indonesia workshop:</b> 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)</li> <li>❖ <b>further steps in “ASEAN Initiative”:</b> to be assessed</li> </ul>

- Contacts with the Government of Japan and of the Netherlands have been established and interest in pursuing efforts to achieve Indonesia’s accession (step 1) has been signalled. Justice James Allsop of the Federal Court of Australia has indicated his preparedness to participate as instructor in the workshop. Contacts with the Government of the People’s Republic of China (MOFCOM) have been established.

\* 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, during the summer of 2007 a plan will be 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). The Secretariat will be able to draw on the experience of the Permanent Bureau of the Hague Conference on Private International Law who kindly offered to share expertise recently acquired during analogous reforms.

- Secondly, 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, as well as up-to-date personnel management generally. An ad hoc Committee is in the process of reviewing and modernising the staff regulations. These are first steps that complement each other. For this 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 (= € 73,000) until 2008 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.

<b>Funding</b>	<ul style="list-style-type: none"> <li>❖ both positions under regular budget in 2007</li> <li>❖ funding under regular budget envisaged for 2008 (F.C.S.C. (107) Exp. Ch. 2; Ch. 3)</li> </ul>
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##### *Governing Council*

- In recent years, the speed and flexibility of the decision-making process have been considerably improved. Suffice it to mention the conditional approval and written procedure for the authorisation of measures regarding the development of draft instruments. Following informal suggestions, the Council may wish to examine whether the increasing amount, complexity and variety of matters before it require organisational responses. For example, benefits may be derived from *preparing* decisions regarding legislative projects, non-legislative work and administrative matters in *Sub-committees*. The Permanent Committee, the standing Sub-committee for the scholarship programme as well as the *ad hoc* Sub-committee for the discussion of the triennial Work Programme may serve as examples for the efficiencies inherent in structuring deliberation and decision-making in specific areas.

##### *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 this year's plan to seise the General Assembly of discussing and adopting the Model Law on leasing 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 2008-2010

- 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 2006-2008 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.

## 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 the 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*.
2. 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, a detailed proposal is submitted and requires immediate action.
3. With respect to the review of internal administrative processes and infrastructure, the uncertainty regarding the presence of an experienced and dedicated administrator permitted only minimal progress. It is hoped that this transition period is drawing 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.
4. 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.
5. 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.