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

(memorandum prepared by the Secretariat)

<i>Summary</i>	<i>Status of implementation of UNIDROIT Conventions and promotion of the instruments other than Cape Town instruments</i>
<i>Action to be taken</i>	<i>• Information concerning Governments' intentions; • Allocation of necessary resources</i>
<i>Related documents</i>	<i>C.D. (86)2 (Report on the Activity of the Institute in 2006) and various other documents for this session; UNIDROIT website</i>

DISCUSSION OF LEADING PARAMETERS AS PROPOSED BY THE SECRETARIAT



I. Strategic Plan

Yes, cf. *Strategic Objective N°11*: the systematic promotion of and active assistance in implementing, applying and monitoring international instruments elaborated under the Institute's auspices.

II. Work Programme 2006-2008

Yes

III. Current assessment

Importance of promoting instruments regularly emphasized by the different UNIDROIT organs (Governing Council and General Assembly), but specific problems in respect of instruments already adopted.

Problems to be overcome	Lack of financial resources; at times, work overload of officers
Staff implications	The officer "in charge" (time allocated depending on requests for assistance and time available)
Budget implications	<p><i>Budget 2006: Chapter 10 – Promotion of UNIDROIT instruments: only 5,000 euros (covers all instruments, including those under preparation); Chapter 11 – Programme of legal co-operation; Chapter 2 -- Salaries</i></p> <p><i>Budget 2007 and draft budget 2008: no increase for the Chapters concerned</i></p>
Recommendations/ Guidance sought/ Decisions to be taken/ Alternatives?	

I. IMPLEMENTATION OF INSTRUMENTS ADOPTED UNDER THE AUSPICES OF UNIDROIT

1. As to the state of implementation (on 31 December 2006) of all *the Conventions prepared by UNIDROIT* and approved at Diplomatic Conferences convoked by UNIDROIT Member States, see the Annex to document C.D. (86) 2 (Annual Report 2006 – situation on 31 December 2006) and/or the UNIDROIT website (<http://www.unidroit.org/english/conventions/c-main.htm>) (which is regularly updated).

◆ *UNIDROIT Convention on International Leasing (1988) and UNIDROIT Convention on International Factoring (1988)*

2. On 5 December 2006 the Government of Ukraine's instruments of accession to the *UNIDROIT Convention on International Leasing and to the UNIDROIT Convention on International Factoring* were deposited with the Department of Foreign Affairs and International Trade of Canada (entry into force on 1 July 2007).

3. This information does not appear in the Annual Report 2006 because it was communicated to the UNIDROIT Secretariat by the Depository (Department of Foreign Affairs and International Trade of Canada) only in March 2007.

4. By 20 March 2007, the UNIDROIT Convention on International Leasing has 10 Contracting States and the UNIDROIT Convention on International Factoring has 7 Contracting States.

◆ **UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (1995)**

5. Since the last session of the Governing Council, another State became Party to the 1995 Convention. In fact, New Zealand has deposited with the Italian Ministry of Foreign Affairs its instrument of accession on 16 November 2006 (entry into force on 1st May 2007).

6. By 20 March 2007, 28 States had become Party to the UNIDROIT Convention on Stolen or Illicitly Exported Cultural Objects.

7. Ratification or accession procedures have been completed (in Greece, for example, where the formal deposit of the instrument has still to be done) or are underway in other countries.

◆ **Other UNIDROIT instruments**

8. On 24 May 2006 the Swedish Parliament adopted a franchise-specific law ("Law on the duty of a franchisor to provide information" (24 May 2006, Law no. 2006:484)), which, although considerably shorter, is based on the UNIDROIT Model Franchise Disclosure Law.

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9. *The Secretariat would be most appreciative if the members of the Governing Council were to get in touch with the authorities in their respective countries with a view to obtaining more information, where appropriate, about their Governments' intentions with regard to UNIDROIT Conventions.*

II. PROMOTION OF UNIDROIT INSTRUMENTS

10. We would recall that the UNIDROIT budget (*Chapter 10 – Promotion of UNIDROIT Instruments*) does not make a distinction between instruments under preparation and instruments that have already been adopted, and only allocates for 2007 a sum of 5,000 euros, the same as that provided for in 2006 (no increase means a cut). The draft budget for 2008 provides no increase at all although a new instrument has been adopted and the Chapter in question is not intended to cover adopted instruments alone.

A. *Instruments under preparation*

11. As to instruments under preparation, these are of course promoted throughout the preparatory stage when the various committees meet, during national or regional seminars, by means of articles published in *Uniform Law Review/Revue de droit uniforme*, by the scholars hosted by the Institute and through the UNIDROIT Internet website. There is no need here to recall the importance of these various means in promoting the Institute's work; suffice it to refer to the respective Council documents dealing with each of the topics on the Work Programme for further information and, in particular, to the document on the *Legal Co-operation Programme* for developing countries and countries in economic transition (C.D.(86)13).

12. Most of these activities are financed by the Institute's ordinary budget. As a rule, however, this does not apply to national seminars, which are usually organised by the interested States.

B. *Instruments already adopted under the auspices of UNIDROIT*

13. The most pressing problems facing the Institute relate to instruments already adopted, owing to lack of financial and staff resources, however much the different UNIDROIT organs may reiterate the importance of promoting our instruments. We would refer to the observations made in last year's document (C.D.(85)11(a)) concerning the *handicap* UNIDROIT suffers in the ratification/accession phase due to its *non-political status*.

14. For examples of promotion, in particular relating to the UNIDROIT Principles on International Commercial Contracts, the ALI/UNIDROIT Principles of Transnational Civil Procedure, the UNIDROIT Model Franchise Disclosure Law or the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, see the Annual report for 2006 (C.D. (86)2).