



GOVERNING COUNCIL
87th session
Rome, 21-23 April 2008

EN

UNIDROIT 2008
C.D. (87) 13(a)
Original : English
March 2008

**Item No. 13(a) on the Agenda : Report on the Work of the *ad hoc* Committee for the
Preparation of a Revision of the Regulations regarding the Organisation of the
Institute – Financial Administration – Staff, Parts I and II**

(submitted by the Secretariat)

1. The Permanent Committee, constituted as an enlarged *ad hoc* Committee and as such including Messrs Jan Govey and Anthony Inglese discussed, based on extensive pre-sessional exchanges and a Working Paper submitted by the Secretariat, a number of amendments to Parts I (Organisation of the Institute) and II (Financial Administration). The Committee recommended and the Council agreed that its proposal for a revised Article 31 be immediately transmitted to the General Assembly, for adoption. The General Assembly, at its 61st session, adopted the revised version of that Article. The Committee furthermore gave a mandate to the Secretariat to prepare, for the 87th session of the Council, a draft (including explanatory notes) reflecting the decisions taken. That draft is attached hereto.
2. With respect to the revision of Part III (Staff), the Committee requested the Secretary-General to consult with the Institute's staff prior to the 87th session and to transmit a preliminary draft of Part III (including explanatory notes) and comments submitted by members of staff to the *ad hoc* Committee, for examination and discussion. That document will follow as C.D. (87)13(b).

APPENDIX

Proposals for a revision of the Regulations –
Organisation of the Institute – Financial Administration – Staff

as discussed and agreed upon by the Permanent Committee,
at its 108th session, Rome, 16 April 2007

PART I**ORGANISATION OF THE INSTITUTE****GENERAL ASSEMBLY**

Provision current wording	<i>Proposed amendments</i>	Explanatory notes
<p align="center">Article 4</p> <p>1. – The Assembly shall be presided over by a Chairman, who shall be the senior ranking diplomat of the Governments represented. The Chairman shall conduct the deliberations and announce the results of votes of the Assembly. He shall also have the casting vote.</p> <p>2. – The Secretary-General shall organise the secretariat of the Assembly.</p>	<p align="center">Article 4</p> <p>(1) The Assembly shall be presided over by <i>its President, who shall be the Ambassador or highest ranking diplomatic representative of the member State holding the Presidency during the year during which the session of the Assembly is convened.</i></p> <p>(2) <i>The member State holding the Presidency shall be chosen in consultations from amongst the member States of one of the five continents [one of the regions in the sense of Article 5 ter] on a rotating basis.</i></p> <p>(3) = old para (2)</p>	<p>The changes reflect standing practice since 1999 in response to calls for raising the level of involvement of Governments and the desire to enhance inclusiveness and a more balanced geographic representation.</p>

GOVERNING COUNCIL AND PERMANENT COMMITTEE

<p align="center">Articles 13, 14 and 17</p> <p>[These provisions are based on the assumption that all deliberations and decisions of the GC and PC require physical presence of their members. Only Article 13(2) makes reference to written</p>	<p align="center">Article 13</p> <p>(1) unchanged</p> <p>(2) The President may consult with the members of the Governing Council <i>in writing or by any other means of communications.</i> Should any proposal made by him <i>or by a member of</i></p>	<p>1. In recent years, important decisions were made on the basis of written communications. In the future and available equipment permitting, discussions may be</p>
--	---	---

procedures, and only refers to consultations]

the Council be unanimously approved, the President shall give immediate execution to it.

organized and decisions may be taken by using conference calls, video conferences calls, video conferences and other means of virtual meetings and decision making at distance.

2. However, neither the Council nor the Permanent Committee should lose the advantages of face to face meetings. New Article 17 *bis* establishes what should be the rule and what the exception

3. Article 13 (2) extends the right to make proposals which, where unanimously adopted, are to be immediately executed to *all* members of the Council.

Article 14

(1) The deliberations and decisions of the Council shall not be valid unless a majority of its members *are participating*. The decisions shall be valid when taken by a majority of the members *participating* and casting a vote. In the event of an equal number of votes being cast, the President shall have the casting vote.

(2) Voting shall be by show of hands *or, if voting is taking place without a physical meeting of the Council, by any appropriate means permitting determination of the voting member's opinion*. If one member requests a vote by roll-call, the members shall be called in alphabetical order.

(3) Notwithstanding the provisions of paragraph 2 of this article, decisions concerning persons shall be taken by secret ballot. *In cases of distance voting the authenticity and the secrecy of the vote must be ensured by appropriate means.*

Article 17

1. - The Permanent Committee shall ensure the continuity of the Institute's operation in accordance with the instructions of the Governing Council.

2. - The decisions of the Permanent Committee shall be valid only if at least three of its members, including the President, attend the meeting or are represented at it. Decisions shall be taken by a single majority.

Article 17

(1) unchanged

(2) The decisions of the Permanent Committee shall be valid only if at least three of its members, including the President, *participate in the meeting or otherwise organized deliberations* or are represented. Decisions shall be taken by a simple majority.

Article 17 bis

(1) Physical meetings shall be the regular and preferred way for the Governing Council and the Permanent Committee to organize their deliberations and take decisions.

(2) Writing, telephone conferences, video meetings, distance voting and other means of electronic communication and decision-making shall be used on an ad hoc basis where deemed adequate.

SECRETARIAT**Article 20**

1. – The Deputy Secretaries-General shall assist or replace the Secretary-General in the organization and performance of the Institute's scientific tasks.

2. - Should the Secretary-General's post remain vacant, the senior Deputy Secretary-General shall fill the vacancy until a successor is duly appointed. In addition he or she shall substitute the Secretary-General in the event of the temporary absence of the latter.

Article 20

(1) unchanged.

(2) When the Institute has two Secretaries-General, the Governing Council shall designate one of them as Officer and Secretary-General ad interim in cases of vacancies or absence of the Secretary-General for longer duration.

In line with the Council's decision that, where in accordance with Article 8 (1) of the Statute, there are two Deputy Secretaries-General, one of them should be required to have a professional profile that includes experience on the area of administration, accounting and personnel management, the changes in Article 20 (2) reflect the need that during vacancies stability and continuity at the executive level is a primary concern.

Article 21

1. – The Head Librarian shall supervise the operation of library services and the maintenance of bibliographic material. He shall submit to the Secretary-General lists of proposed acquisitions.

2. – A general purchasing plan for the Library shall be drawn up at the beginning of each financial year by the president with the assistance of the Secretary-General, the Deputy Secretaries-General and the Head Librarian.

Article 22

Whenever functions pertaining to the management of the Institute are performed by civil servants of a member Government duly paid by such Government, provisions concerning staff appearing in Part Three of these Regulations, including salaries scales, shall not be applicable. The Governing Council may however grant them an allowance for their collaboration as well as a sum for representation expenses and, if need be, a travel allowance.

Article 21

(1) The Head Librarian shall supervise the operation of Library services and the maintenance of bibliographic material.

(2) He or she shall report regularly to the Governing Council and the General Assembly identifying the state of affairs and the needs of the Library

Article 22

Whenever functions pertaining to the management of the Institute are performed by civil servants of a member Government duly paid by such Government, provisions concerning staff appearing in Part Three of these Regulations, including salaries scales, shall not be applicable. The Governing Council may however grant them an allowance for their collaboration as well as a sum for representation expenses and, if need be, a travel allowance. *The Institute shall however*

1. In recent years, the Librarian's role has been strengthened mainly as a consequence of (a) her being the first professional librarian by training and prior work experience, (b) the importance of IT expertise, and (c) the importance of operating the Library within the network of other specialized and better funded libraries. At the same time, the funds at the disposal of the Library under the Institute's regular budget make acquisition of books an almost marginal and exceptional event. Donations and exchange arrangements with other libraries and Government departments in member States are an increasingly important source of new material. Deletion of old Article 21 (2) would re-align the Regulations with reality.

2. The proposed new paragraph 2 stresses the importance of governing bodies' being regularly apprised of the needs of the Library, a branch of the Institute's activities which is mandated by Article 9 of the Statute.

1. The Institute actively pursues the option of having civil servants from member States' governments seconded to the Organisation as a means to strengthen its ranks and to broaden its resources in terms of professional background.

2. In practice, secondments will tend to be short-term (one to three years) and the involvement of the Governing Council may be cumbersome. The President and the Secretary-General should therefore be

grant such travel and other allowances as are commonly granted to members of the professional staff of the Institute.

authorized to make the necessary arrangements.

3. Furthermore, paragraph 2, as amended, reflects the need to guarantee equal treatment of seconded officers.

PART TWO

FINANCIAL ADMINISTRATION

Provision current wording	<i>Proposed amendments</i>	Explanatory notes
<p>Article 26</p> <p>1. All Institute funds shall be deposited in banks selected by the Finance Committee.</p> <p>2. The Institute may also possess a post office current account.</p>	<p>Article 26</p> <p>1. unchanged</p> <p>2. to be deleted.</p>	<p>Following corporatization of the Postal Services the financial services provided by that organization are effectively provided by the "post bank" so that no need to mention it separately exists.</p>
<p>Article 34</p> <p>The Secretary-General, on the advice of the Treasurer, shall approve the proposals where appropriate and sign an order for payment.</p>	<p>Article 34</p> <p><i>The Secretary-General or the Deputy Secretary-General exercising the functions of the Chief Administrative Officer or the person designated by the Permanent Committee, on the advice of the Treasurer, shall approve the proposal where appropriate and sign an order for payment.</i></p> <p style="text-align: center;">* * *</p>	<p>The changes reflect the decision to always designate one of the Deputy Secretaries-General as Chief Administrative Officer and to assign primarily administrative functions to him.</p>