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**GOVERNING COUNCIL**  
**90<sup>th</sup> session**  
**Rome, 9-11 May 2011**

UNIDROIT 2011  
C.D. (90) 16  
Original: English  
April 2011

**Item No. 17 on the agenda: Strategic Plan**

(Report of the Informal Working Group)

<i>Summary</i>	<i>Suggestions to update or redefine the Organisation's strategic objectives</i>
<i>Action to be taken</i>	<i>The Governing Council is invited to review the proposals made by the Informal Working Group together with the memorandum prepared by the Secretariat for the Council's 89<sup>th</sup> session (C.D. (89) 16) and to consider the desirability of mandating the Secretariat to update the Strategic Plan prepared in 2003 with a view to its adoption by the General Assembly, at its 69<sup>th</sup> session, to be held in December 2011.</i>
<i>Mandate</i>	<i>Governing Council, 89<sup>th</sup> Session (UNIDROIT 2010 – C.D. (89) 17, Report of the Session, para. 176)</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>UNIDROIT 2003 C.D. (82) 21</i></li><li>● <i>UNIDROIT 2009 – C.D. (88) 9</i></li><li>● <i>Unidroit 2010 – C.D. (89)16</i></li><li>● <i>UNIDROIT 2002 IBS Docs. 1 and 2</i></li></ul>

**INTRODUCTION**

1. At its 89<sup>th</sup> session (Rome, 10-12 May 2010) the Governing Council took note, with appreciation, of a memorandum containing the suggestions of the Secretary-General to update or redefine the Organisation's strategic objectives and agreed to establish an informal working group to examine the various matters and options outlined in that document with a view to the preparation of a draft new Strategic Plan to be submitted to the Council for consideration at its 90<sup>th</sup> session, in 2011. The following members of the Council volunteered to participate in the work of the informal working group: Chief Michael Kaase Aondoaka, Ms Baiba Broka, Mr Sergio Carbone, Mr Henry D. Gabriel, Mr Didier Opertti Badán, Ms Kathryn Sabo and Mr Daniel Tricot.

2. On 29 July 2010, the Secretary General invited Mr Broka to act as a coordinator of the Informal Working Group, a proposal that met with the approval of the other members of the Informal Working Group. The Informal Working Group agreed to conduct its work mainly by electronic mail.

3. The Informal Working Group also agreed to used the Secretariat memorandum submitted to the 89<sup>th</sup> session of the Council (document C.D.(89)16) as a basis for its work, whereas the document entitle "Strategic Plan - HORIZON 2016" issued by the Secretariat on 28 November 2003 (document C.D. (83)6) was used as an existing Strategic Plan which should be updated from time to time. Several questions were raised during the consultations of the Informal Working Group, and Professor Gabriel prepared a list of questions that were sent to UNIDROIT. All the questions asked and answers received from the UNIDROIT are included in Appendix to this report in order to facilitate the discussion between members of the Governing Council.

**I. FINDINGS AND PROPOSALS FOR THE STRATEGIC PLAN****A. Vision**

4. One of the key questions to be answered is how the Governing Council and the member states understand the role of UNIDROIT working in the global climate of competition, and how we would like to see UNIDROIT in the future.

5. UNIDROIT is an independent intergovernmental Organisation. However, its a-political approach (although not unique) enables UNIDROIT to work efficiently with all States without being influenced by considerations of a political character to elaborate universally acceptable solutions. The Informal Working Group strongly supports the invitation by the Secretariat not to consider any scenario involving the UNIDROIT's integration or institutional linkage with other Organisations.

6. Within the Informal Working Group there was no discussion that existing 12 Strategic Objectives included in the Horizon 2016 should be changed. All of them are still relevant however priorities, technical implementation and allocation of financial resources are questions to be discussed within Governing Council.

7. The Informal Working Group would like to submit the following proposals, which, drawing on particularly successful achievements of UNIDROIT in its long history, could be further enhanced to mark the strategic position of the organisation in the future:

(a) Affirm and strengthen the role of UNIDROIT as a forum for the development of high-quality uniform rules, norms and principles on the basis of a carefully defined and sharply focused Work Programme that takes into account its relative advantages and expertise of the organisation, and that avoids both unnecessary duplication of efforts underway elsewhere and inefficient dispersion of its scarce resources;

(b) Further develop the capability of UNIDROIT, through its flexible working methods, to function as a meeting place where legal scholars, government officials and industry leaders to study and discuss issues of private law and to work together to deliver international legal instruments that help promote a better climate for international trade; and,

(c) Enhance the capacity of UNIDROIT to act as a place of learning and access to new thinking on private law harmonisation and modernisation and to promote effectively its work and the benefits it brings to international trade at both a regional and a global level by intensifying the working relations with key industry stakeholders, organizations (European Commission; UNCITRAL, Hague Conference on Private International Law; World Trade Organization and others).

## **B. Targets**

8. Deliver measurable results over the next three years in key performance areas:

- (a) Legislative activities;
- (b) Research/documentation/publications; and
- (c) Legal cooperation

### **1. Legislative activities**

9. The Informal Working Group considers that UNIDROIT, as a rule-making body, should concentrate on:

- (a) areas in which its flexible structure and academic network represent an added value: an example would be the UNIDROIT Principles of International Commercial Contracts;
- (b) areas in which UNIDROIT has special expertise and where the fact that it is not evenly represented around the globe (as compared, for example, to UNCITRAL) would be an advantage rather than a drawback, since its more restricted and informal working environment makes for greater flexibility: an example would be the Cape Town instruments and the UNIDROIT Convention on Substantive Rules for Intermediated Securities; and
- (c) areas of private law that are not covered by other Organisations with much greater resources, in particular where synergies with other Organisations, especially those based in Rome, are possible: cultural property (ICCROM), land law, particular private law aspects of agricultural funding (FAO, IFAD), social enterprise (IDLO).

### **2. Non legislative activities**

10. Non-legislative activities (the Library, the ULR, the UNILAW and the scholarships programme) need to be clearly linked to the Organization's mandate and its products and should provide services that are not available elsewhere. In particular, non-legislative activities must provide an added value to the Organization itself; effectively support Organization's core activities; and promote Organisation's work and raise awareness about Unidroit and its achievements.

11. The main target of non-legislative activities should therefore be to promote UNIDROIT's work more effectively, involving also members of the Governing Council. Non-legislative activities should be conceived and structured in such a way so as to make of their end-users potential partners in promoting the work of UNIDROIT and raising awareness about its achievements.

12. UNIDROIT should deliver added value to its member States. The Informal Working Group would wish to stimulate a discussion in the Governing Council as to what role UNIDROIT may play in providing assistance in the implementation of UNIDROIT legal instruments and on drafting national private laws and regulations.

**II. Possible areas of improvement****A. Institutional aspects****1. Membership**

13. Membership of UNIDROIT is restricted to States acceding to the UNIDROIT Statute. UNIDROIT's 63 member States are drawn from the five continents and represent a variety of different legal, economic and political systems as well as different cultural backgrounds. Should we consider expanding membership to provide observer status to regional organizations such as Mercosur and the African Union? What other mechanisms do we have to increase membership?

14. The Informal Working Group confirms that there is a need to continue expanding UNIDROIT activities in the Middle east and Africa regions inviting States to become members the Institute, however the status of observer organisations is unclear.

15. It was noted that communication between the Governing Council and the General Assembly is not always effective since participation in the Governing Council is on an *ad personam* basis. The Governing Council is invited to consider concrete measures to improve this situation, some of which were suggested in the Secretariat's memorandum prepared in 2010 (see C.D. (89) 16, paras. 133-136).

**2. Governing Council**

16. Members of the Governing Council should actively promote the legislative instruments of the UNIDROIT and the name of the UNIDROIT. This is a very important role to be performed by Members of the Governing Council through their academic, professional and personal networks. UNIDROIT correspondents should collaborate with this task.

17. For example: (i) at the academic level, facilitate and promote the study of UNIDROIT's mission, its work and the instruments it produces at university programs and courses, as well as in judicial training Centres, (ii) advocate the use of the UNIDROIT Principles on International Commercial Contracts at the private activity; (iii) promote UNIDROIT's publications among students, professionals and judges, and (iv) promote UNIDROIT's scholarships among senior students and scholars.

**3. Correspondents of UNIDROIT**

18. UNIDROIT correspondents should be involved more actively. In order to achieve that target, someone in the Secretariat -or elsewhere- should be in charge of asking the correspondents the information or material they must deliver and the deadlines.

19. The role of correspondents must be to work for the Institute. In other words, the mechanism of correspondents is useful and may really work adequately, as far as it is properly organized. That requires special attention from the Secretariat. A periodical revision of the correspondents' list should be done by the Secretariat, on the basis of the response of each one of them to its requirements. Correspondents should collaborate with the Institute in this kind of task, but always at the Institutes request and under its guidelines.

20. The Informal Working Group agrees to "consider ways in which the network of correspondents might be revitalized, giving priority to the establishment of institutional links between UNIDROIT and research institutions, *in addition to* individuals.

21. At present, the Governing Council for, has adopted term appointments of three years UNIDROIT correspondents, with the possibility of continued reappointment indefinitely. As has been discussed at prior Governing Council meetings, it may be useful to write the present (and future correspondents) about their desire to remain on the list. There is a need to establish a policy of specifying to our correspondents how they may contribute to the Institute. This, for example, could include collecting cases and doing summaries for our UNILAW database

22. In accordance with Article 5 of the UNIDROIT Statute, the Work Programme is decided by the Governing Council, and then adopted by the General Assembly every three years. Proposals for new items to be included in the Work Programme may come from the Governing Council, from member States or from the Secretariat. UNIDROIT correspondents are often asked to comment on these proposals before they are submitted to the Governing Council. Therefore, the Informal Working Group proposes that there should be a system for contacting the correspondents on Work Programme issues systematically.

#### **4. Structure the Secretariat**

23. The Informal Working Group agrees that staff cuts are not a viable option. If anything, UNIDROIT is understaffed.<sup>1</sup> The real problem is the shortage of funds for project activities.

24. Additional resources are needed to maintain a financially healthy (self sufficient) organization. There is a strong need to consider the strengthening of the Secretariat, both in terms of staffing as well as resources.

25. The Informal Working Group invited the Council to consider the option of organizing training seminars about new legal instruments or on the experience gained by different countries in the application of existing legal instruments (there should be a participation fee, to be established on the basis of an accurate cost assessment). Another possibility might be to consider cooperation with other Training Organizations in the particular business fields (at IATA training centres, it has been reported that there is strong interest for 2-3 days training seminars on the Cape Town Convention and The Aircraft Protocol from a practical point of view).

#### **B. Working methods: legislative activities**

##### **1. Study Groups and Working Groups**

26. The members of Study Groups and Working Groups are experts in their field, and sit in a personal capacity, as experts and not as representatives of their countries of origin. They are nominated by the President of the Institute at the suggestion of members of the Council and the Secretariat. Study Groups are normally quite small, consisting of about 15 members at most, and, depending on the subject-matter dealt with, may have observers from other Organisations and from representative international professional associations.

27. As it was discussed in the Informal Working Group the study groups usually produce at least a good working draft before the document is sent to the intergovernmental stage, therefore there is a proposal to consider a broader representation at this stage so that some member states do not feel as if they have been left out of the core work of the instrument.

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<sup>1</sup> By way of comparison, the Hague Conference has a total of 32 staff members, of which 16 at the professional level. The UNCITRAL secretariat is smaller, with 19 staff members, of which 13 area lawyers, but it has at its disposal the central support services of the United Nations Office in Vienna and the United Nations headquarters in New York.

## **2. Committees of governmental experts**

28. Once the Committee of Governmental Experts has completed its task, the draft instrument as modified by the Committee is submitted to the Governing Council (Article 14(3) of the Statute). If the instrument is a draft convention or protocol, the Governing Council will authorise the transmittal of the draft to a Diplomatic Conference (Article 14(4) and (5) of the Statute) that will be convened by one of the member States of the Organisation. If the instrument is a model law, the Governing Council will generally endorse the work of the Committee and authorise the publication of the model law.

29. The Informal Working Group would like to stimulate a discussion on how to make greater use of the General Assembly for the adoption of UNIDROIT instruments, including those that currently require the convening of diplomatic conferences. This solution could bring two benefits: (a) broader participation; and (b) cost savings for the Institute and Member States as well.

## **3. Cooperation with Industry and practitioners**

30. It is very important to extend the Institute's co-operation with the private sector and to exchange ideas outside the formal context of specific projects. However, as it is suggested in the Memorandum of the Secretariat (see C.D. (89) 16, para. 100), we must be careful in order to identify and avoid undue influence on the part of pressure groups.

# **C. Working methods, resources and priorities: non-legislative activities**

## **1. Library**

31. The UNIDROIT Library is an activity mandated by the Statute. As far as the Secretariat is concerned, the need to maintain and expand it is not open to debate. However, taking into account budgetary constraints the Governing Council should consider that investment in the Library should prioritize measures aimed at:

- (a) supporting the research activities needed to carry out the Organization's Work Programme;
- (b) limit the development of the library to areas that complement the research and work program of the Institute.
- (c) intensifying exchanges with other libraries, including libraries maintained by other intergovernmental Organizations, such as the Hague Conference and UNCITRAL.

32. It may also be desirable to work on exchanges with university libraries as well as a select number of research organizations, such as the Max Planck Institute.

33. Given the limited resources now available and likely to be available in the future, the following might be considered:

- (a) Develop a specific acquisition policy that specifies the areas that the library will keep current and develop. Funding does not make it feasible to continue to operate on the assumption that the library can continue to cover all areas of the law.
- (b) Determine what is already available in Rome to avoid duplication.
- (c) Determine what law is readily available on the internet at no cost, for example those sources found at <http://www.hcch.net/upload/hidden/xs24inlaw.html>, so that these sources are not unnecessarily duplicated in the library collection.

(d) Institute a training program for staff and researchers on how to access legal materials on the Internet to facilitate research.

(e) Determine what materials are available on online databases and at what cost to ensure that the library budget is maximized by replacing hard copy subscriptions with online subscriptions, where this is cost effective.

## **2. The UNILAW Database**

34. The UNILAW database presently takes up over one-third of a senior member's work time. In addition, Ms. Judith Kisely works part time on the data bases, as do several interns. Ms. Kisely and the interns (to the extent they are paid) are paid from the Uniform Law Foundation funds, but to the extent these funds are used for the data base, they are not available elsewhere. Additional resources are also used by the data base, such as photocopying.

35. Thus, the database consumes significant Institute resources. The database, however, does not directly support the core research and drafting work of the Institute, and therefore must be viewed as a public service for those outside the Institute. Given the number of visitors to the online database- just over 10,000 a year, there is a question of whether its utility justifies its expense. The Informal Working Group supports the Secretary General's idea that *the database should be limited to UNIDROIT instruments*.

36. Going beyond that in an attempt to create a general international commercial law database would require a vast amount of resources, and would likely result in work that is duplicated elsewhere. Even with this restricted scope of the database, for its continued vitality, there needs to be some extensive publicity of its existence to *increase awareness and its usage*. Unless the database becomes a more widely used tool, it may be worth reconsidering whether the actual public service provided is worth the cost.

37. Keeping the database current and complete has been a constant challenge. Without some method for achieving this within the current resource limitations, the database will become increasingly less reliable and therefore of less use. Unless this can be assured, the continued use of Institute resources for the database may be unwarranted given the competing demands for resources.

38. There is also the question of whether the software is current. The database currently does not have full keyword search, such as is found with the Hague Conference database. Some thought may be given to creating national or regional "correspondents" or "editors" who could collect and organize the relevant cases for their respective nations or regions. This would allow this aspect of the database content to be done outside the Institute and free up staff time.

39. UNIDROIT correspondents and members of the Governing should be encouraged to contribute more actively to UNILAW, for instance by being requested to deliver information (court cases; articles; research papers; doctoral thesis; information on national judicial systems) from the country they represent on regular basis (for example- once a year). Members of the Governing Council in order to promote UNILAW database and Library at their countries (at the Universities, Judicial Training Centres)

## **3. Uniform Law Review**

40. There are 3 ( three) people engaged in producing publications of the UNIDROIT: first of all, the *Uniform Law Review / Revue de droit uniforme*; but also the *UNIDROIT Proceedings and Papers – Actes et documents d'UNIDROITI*, the collections of UNIDROIT documents (*Travaux préparatoires 1970*

– 2004 on the UNIDROIT Principles of International Commercial contracts, ...). However the entire Secretariat is involved in some way or other.

41. As per facts analyzed within the Informal Working Group: - At present, the journal publishes about 500 copies per issue, of which about ½ are sold. Most of these are to university libraries; roughly 200 copies are given in exchange for other journals. The Uniform Law Review brings in revenues of around 25,000 Euros a year. The real cost of production of the Uniform Law Review still is not clear. Apparently, there is some difficulty to determine the amount of staff time necessary to produce the journal, but retrospectively the printing costs are over 20,000 Euros a year with another 14,000 Euros for postage. The Informal Working Group would like to introduce a discussion on whether the publicity to the Institute as well as the intangible benefit to the academic and professional world justifies the costs to the Institute.

42. The Informal Working Group invites to discuss ways to reduce costs if possible and still maintain the Uniform Law Review.

43. Proposed options for the cost reduction:

(a) Revert to the former two issues per year, as was done from 1973-1995, instead of the quarterly publication done at present. This may entail being more selective in the material that is published;

- (b) Become an online journal;
- (c) Have a single yearbook issue every year.

#### **4. Scholarships**

44. Since the implementation of the scholarship program in 1993, there have been 210 scholars, with roughly 10 to 15 a year. The scholarship program has generally, at least among members of the Governing Council, received strong support. It may be worthwhile to give a closer examination to the programme to determine whether the current allocation of resources is maximizing the benefits of the programme.

45. The Institute resources for the scholarship program consists of approximately one-third of the cost of the actual scholarships (about 10,000 Euros from the General Budget) plus professional staffing costs and general services costs estimated at around 31,000 Euros.

46. The Informal Working Group invites to open discussion on the following questions:

(a) Does it make sense to seek additional external funding for the scholarships to increase the number available without increasing the direct costs to the Institute?

(b) Does the Institute and we- Governing Council have a clear idea what the scholarship programme is suppose to achieve? Should we articulate these goals?

(c) Other than a monthly stipend, what other services, facilities and guidance can be meaningfully provided to the scholars?

(d) Is it possible to involve the scholars on projects that directly relate to the work of the institute?

#### **5. Legal Cooperation**

47. The Informal Working Group agrees with the proposal of the Secretariat that the following scenarios for the legal cooperation would seem to be possible:

(a) to systematically integrate strategic considerations on promotion of a future instrument into the decision-making process that leads to the inclusion of a topic into the Work Programme. In other words, UNIDROIT should assess, already at the stage of feasibility studies, how the future instrument might be promoted and which Organisation should, already at that stage, be approached as a potential partner;

(b) to devise common promotion and technical assistance programs with other rule-making agencies having developed complementary instruments (UNCITRAL/UNIDROIT/Hague Conference for CISG/UPIICC/Choice of Law-Applicable Law/E-Commerce; HCCH/UNIDROIT for Securities trading; HCCH/ UNIDROIT on migration, family law, Washington Convention; UNCITRAL/UNIDROIT/Hague Conference in the area of secured transactions).

(c) to intensify contacts with non rule-making bodies so as to persuade them of the usefulness of incorporating the promotion of UNIDROIT instruments into their technical assistance and law reform programmes (already the case for Cape Town, could be further explored for securities).

**APPENDIX****Questions asked by the Informal Working Group  
and answers prepared by the UNIDROIT Secretariat****LIBRARY*****How many volumes and active periodicals does the Library have?***

The library has about 245.000 volumes and 256 current legal periodicals from a wide range of countries (111 bought; 12 as gifts, 133 exchanges).

***What are the acquisition policies or criteria used by the Library?***

The Library's acquisitions policy for books, journals, documents and electronic resources follows closely the UNIDROIT research profile. These topics cover: the unification of law (universal, regional and internal), international commercial transactions: contracts in general (e.g. the UNIDROIT Principles of International Commercial Contracts) and specific contracts (sales, factoring, leasing, franchising, agency, secured transactions etc.), transport law, civil liability, dispute settlements, cultural property law, private international law, law of international civil procedure and international capital markets.

Unification of Law: Top priority is given to the acquisition of materials in the area of the unification of law in all its aspects.

Comparative Law: Many of the research projects are of a comparative nature. The library holdings are closely linked to these projects. A few examples of areas covered are: general theory of comparative law, private law, contract law and commercial law, procedural law, economic law. Areas which are typically not covered are family law, criminal law and tax law.

National Law: The Library has a core collection of primary and secondary legal materials of the national law of a wide range of countries. Given the small number of researchers using these national collections, the books collection is very much based on on-demand acquisition. There is, however, a large collection of encyclopedias, national law reports and reports of legislation on paper, see list of law reports complemented by databases on Cd-Rom and on-line (see databases).

A specific feature of the law collection (like the rest of the Library) is that it is multilingual, which has to be kept in mind when consulting the on-line catalogue.

***How many databases or electronic journals are accessible to the Library and from how many jurisdictions/legal systems?***

UNIDROIT currently subscribes to three electronic resources: HeinOnline, West Law International and Sistema Pluris On-Line. Those databases cover the civil law, common law and mixed jurisdictions.

***Are acquisitions and subscriptions coordinated with other Rome-based libraries?***

Since November 2010, on the basis of a cooperation with the University La Sapienza, Rome, Institute for Economy, some acquisitions and subscriptions, especially with regard to Italian legal periodicals, are coordinated with the University Rome I and with the Library of the "Banca d'Italia" (Bank of Italy).

**Does the Library participate in inter-library loan schemes?**

In order to improve the services offered by the Library - in particular the accessibility of books and periodicals - without actually purchasing the material, UNIDROIT has concluded an agreement with GVB - *Gemeinsamer Bibliotheksverbund* - enabling it to request books on loan as well as articles from various German and Austrian library networks. This system has already demonstrated its usefulness in 2009 and 2010. Furthermore, there is an agreement with the University La Sapienza, Rome, and with the Library of the Bank of Italy, Rome. In June 2011 the inter-library loan module of the UNIDROIT library's administrative library software Aleph500 will be fully activated.

**Is there a catalogue for articles in periodicals held by the Library? What is its coverage (in %)?**

In 2010, more than 1000 bibliographical references for the bibliography for the Uniform Law Review have been catalogued in the Library. The bibliographical references are available in the bibliography of the printed version of the Uniform Law Review, as well as in the database of the electronic version of the same and in the online catalogue of the UNIDROIT Library. They are also used as a basis for bibliographical entries in the Unilaw database. The Library started to catalogue bibliographic references in 2006. There are almost 8000 articles in periodicals contained in the electronic catalogue of the Library, which is 3% of the collection.

**How many visitors have the Library yearly? What is the average length and purpose of stay? What are the nationalities?**

The Library counts an average of 1800 visitors a year. There are various groups of visitors: UNIDROIT scholars, UNIDROIT interns and independent researchers. The average length of the UNIDROIT scholars are two months, independent researchers usually stay for a month. Visitors come from all over the world. In 2010, they came from 33 countries.

**What is the total personnel cost of the Library per year?**

The total personnel cost of the Library per year is Euro 304.771,00 (Euro 223.669,00 salaries and Euro 81.102,00 social contributions)

**UNILAW Database****How and by what criteria are articles and cases selected for insertion in the database?**

**Articles:** The text of articles is not inserted in the database (there would be a problem of copyright). We insert the relevant *bibliographic references* that are in the bibl **Cases:** There is an on-going discussion on the cases to insert and the criteria for their selection. In essence the positions reflect different concepts of what a database is and what it should do. According to one position only what the common lawyers call "leading cases" should be inserted, according to another also other cases should be inserted as the leading cases alone do not give any indication of what the courts will normally do. The difficulty with leading cases is that it is not a homogeneous concept. In the civil law countries the importance of cases is not the same as in common law countries, even if the influence of cases is changing. Even in common law countries there are differing views (see Ivor Richardson, *What makes a "Leading" Case*, in: Victoria University of Wellington Law Review 2010, 317 – 338, and Susan Glazebrook, *What makes a Leading Case? The Narrow Lens of the Law or a Wider Perspective?*, in: Victoria University of Wellington Law Review 2010, 339 – 360). It is a discussion that is conducted principally in the Board of Governors of the Uniform Law Foundation, which a few years back decided that if a case had been published in two or more journals this was an indication of its importance and therefore precedence should be given to those cases. Another view is that the mere fact that a case has been decided by the Supreme

Court makes it what can be considered a leading case and therefore it should be inserted. On the other hand many lower courts have interesting cases that should also be inserted. It also depends on the country: some countries do not have reporting systems, so any cases that come from those countries are of interest and should be inserted, also in the interest of promoting a uniform *application* of the conventions. So far we have inserted the cases of which the Uniform Law Review published summaries, we have also inserted case summaries written by interns and externs, in the first instance supreme court cases but not only.

***What software is used by the database?***

The software was prepared especially for the database.

***Who provides maintenance for the software and at what cost?***

The software expert who wrote the software. The cost depends on what has to be done, there is no fixed cost for the year. A small sum is paid for the hosting of all our electronic sources of information.

***How many visitors has the database had per year?***

The monitoring system was put in place in July 2009. Before that we have no data. It should be stressed that so far *no publicity has been made for the database*. Once its existence is made known, the figures are likely to change. In the period 1 July 2009 to 1 July 2010 there were 13,070 visits, from 10,871 visitors from 152 countries or territories. The period from 1 January 2010 to 1 January 2011 saw 12,982 visits from 10,515 visitors from 153 countries. It should be noted that the database changed in this period, as at the end of October 2009 the new section with external links to sites and databases with international conventions was added and the sections on carriage by air and carriage by sea were taken off the air. Visitors who were interested in these subjects would logically no longer visit our database.

***Are there external contributors to the database (other than for funding?)***

Yes. We have people who write case summaries, translate them or check the translations, sometimes former interns who continue to collaborate, at other times people who contribute.

**UNIFORM LAW REVIEW*****How and by what criteria are articles, cases and other materials selected for publication in the Review?***

At times we receive *articles* from people who wish to publish in the ULR, at others we come to an agreement with another institution that we will publish a congress they have held, or we publish our own congresses. At times we ask people to write, especially if we are planning a special issue. If we ask people it is easier to select authors that will produce quality articles. If we come to an arrangement with another institution we can find ourselves in the necessity to publish what is transmitted to us, even if we normally would not. Articles sent to us are evaluated, sometimes by a member of staff, sometimes by one of our correspondents or other contacts. *Cases* are no longer published by the ULR and as from 2011 the *Status of implementation* of international instruments will no longer be published. We publish the *Bibliography*, which is produced by the library, and *UNIDROIT News* which is produced by the members of staff that have news to give, such as news on meetings that have been held. *Book reviews and notices* are produced by members of staff and by external contacts. *UNCITRAL* and the *Hague Conference* send us a report each every year, illustrating work in their organisations. Lastly, the text of *International instruments* recently adopted is published if we consider it to be of interest, otherwise not.

***Describe the process and actions necessary for preparing articles and other materials for publication, including time needed***

Material submitted for publication first needs to be formatted in accordance with the Review's publication parameters. Apart from the length of the article (or other material), the time involved depends in large part on the number and presentation of the footnotes, work on which can be very time-consuming. After formatting, the material must be edited - this is the most labour-intensive part of the process in many cases, since all authors are by no means English-speakers (or French-speakers, as the case might be). Editing - always depending on the length of the contribution, and its quality - can take from several hours to several days, with (occasionally) peaks of up to a week. The editing is essentially linguistic in nature, but some editing as to content is also involved, not least with regard to footnotes. The bilingual sections of the Review must be translated into the other language - this is done in house, generally by the member of staff responsible for producing the Review. Once all the material has been processed in this manner, and all authors have agreed to the editorial changes and given the go-ahead for publication (which involves correspondence), the Review is physically put together, final touches added, and dispatched for printing and binding, which are done externally.

***How is the Review distributed?***

The Institute mails the ULR directly to subscribers and to booksellers that request it. Furthermore, Hein-on-line reproduce our Review, with a two-year gap.

***How many law libraries subscribe to it or otherwise receive it?***

The data I have available relate to the years 2006 – 2008 and were given in the Council document of 2009 (CD(88) 14). Before receiving this request, I had already asked Ms Dubois of the Secretariat to complete the years 2009 and 2010. This information will be available for this years' Council meeting. The information for the years 2006 – 2008 is given in the table below:

CATEGORY	2006		2007		2008	
Unidentified			2	2 Sales	1	1 Sale
Associations	7	2 Depository Libraries 5 Exchanges	10	6 Exchanges 2 Depository Library + Exchanges 2 Gifts	10	6 Exchanges 2 Depository Library + Exchanges 2 Gifts
Academy	2	1 Depository Library 1 Exchange	3	1 Depository Library 2 Exchanges	3	1 Depository Library 2 Exchanges
Bookshop	56	All Sales	55 + Hein	All Sales	37 + Hein	All Sales
Banks	5	1 Depository library 4 Sales	4	1 Depository library 3 Sales	5	1 Depository library 4 Sales
Court	10	3 Sales 7 Exchanges	13	3 Sales 9 Exchanges 1 Gift	13	3 Sales 9 Exchanges 1 Gift
Chamber of Commerce	1	Gift	1	Gift	1	Gift
Company	1	Sale (only 10 x 2006/3)				
Government	13	5 Sales 6 Depository libraries 2 Exchanges 2 Gifts	21	6 Sales 6 Depository libraries 5 Exchanges 4 Gifts	21	5 Sales 6 Depository libraries 1 Depository library + Exchange 5 Exchanges

						4 Gifts
In-house Counsel	5	All Sales + 1 only 2006/3	5	4 Sales 1 Gift	3	Sales
Institutes	6	1 Depository library 5 exchanges	7	1 Depository library + Exchange) 5 Exchanges 1 Gift	7	1 Depository library + Exchange) 5 Exchanges 1 Gift
Lawyer/Law Firm	49	33 Sales + 6 only 2006/3 10 Exchanges	32	18 Sales 13 Exchanges 1 Gift	23	8 Sales 13 Exchanges 2 Gifts
Organisation	24	6 Sales 17 Exchanges 1 Gift	27	4 Sales 20 Exchanges 3 Gifts	30	4 Sales 20 Exchanges 6 Gifts
Professional Association	7	All exchanges	8	All exchanges	8	All exchanges
Public Library	7	2 Sales 5 Depository libraries	10	2 Sales 5 Depository libraries 3 Exchanges	11	2 Sales 5 Depository libraries 4 Exchanges
Publication	4	All exchanges	6	All exchanges	7	All exchanges
University	267	161 Sales + 2 only 2006/3 9 Depository libraries 3 Depository library + Exchange 91 Exchanges 3 Gifts	304	173 Sales 10 Depository libraries 3 Depository library + Exchange 110 Exchanges 8 Gifts	282	146 Sales 1 Sale + Depository library 10 Depository libraries 3 Depository library + Exchange 114 Exchanges 8 Gifts

**How many paid subscriptions and how many exchanges are generated by the Review?**

DISTRIBUTION						
Year	Item	Total	Sales	Exchanges	Depository Libraries	Gifts
2006		459	276	151	27	5
2007		507	270	190	27	20
2008		459	212	197	27	23

In addition, a number of users (including law libraries) have access to the Review through Hein-on-line.

**How many copies are sold per year?**

The copies sold are indicated in the reply above (the figures will be integrated for the next Governing Council). In addition to the regular subscriptions, single copies are also sold, in particular of the monographic issues. Below, is a table with the revenue generated by the Review:

REVENUE FROM SALES (IN EURO)					
	Subscriptions	Residue	Sales of back copies	Residue	TOTAL (Residue excluded)
<b>2006</b>	20,002.94		5,942.85		25,945.79
<b>2007</b>	25,450.25	115.00	7,075.60		32,525.85
<b>2008</b>	22,442.00	983.00	3,316.00	515.00	22,778.00
<b>2009</b>	24,474.72		2,259.00		26,733.72
<b>2010</b>	21,366.00		2,521.00		23,887.00

The figure for 2010 is not final, as there may still be some sales. Our arrangement with Hein-on-line produces some royalties. The royalties referring to one year are normally transmitted the following. Therefore we have not yet received the royalties that refer to 2010. The royalties referring to 2009 were € 2,309.72 (included in the figures in the table above). Not to be forgotten is the value of the Review for the library as exchange for periodicals in our collection.

### ***What is the total personnel cost of the Review per year?***

One of the difficulties in replying to questions like this is that with only rare exceptions all members of staff of the Institute do several different things and that therefore first, a rough estimate has to be made of the time spent on any one thing and secondly, a figure has to be derived from that by dividing the salary. As regards the Review, all members of staff at one time or another do something for the Review. Thus:

#### ***General / Regular Responsibility:***

José Angelo **Estrella Faria**, Joint Editor-in-Chief (correspondence, reading of articles, planning)

Lena **Peters** Joint Editor-in Chief (from January 2011: still to see how much time will be spent on the ULR) (correspondence, reading of articles and checking of footnotes, planning, relations with the printers, marketing, coordination of, eg. book reviews if we continue to do them, etc.)

Patricia **de Seume**, Assistant to the Editors-in Chief (editing in English, correspondence with the authors on their articles, translating where necessary, formatting)

M. Joachim **Bonell**, member of the Editorial Board (correspondence for subject-matters of competence, planning)

Bettina **Maxion** and Patricia **Lemaire**, Library (bibliography)

Carla **Milani** / Isabelle **Dubois**, Secretariat (Sales, invoicing, statistical data)

Daniele **Sallustri**, Secretariat (mailing) (with the assistance of other members of staff for the insertion of the reviews into the envelopes, etc.).

## **SCHOLARSHIPS PROGRAMME**

### ***How many scholars does UNIDROIT sponsor each year?***

This varies upon the overall availability of funding and the amount of the individual scholarships, as well as organisational and logistical considerations (the funding allocated a given year may be used the following year).

Figures for the last 5 years: 2006: 17 – 2007: 12 – 2008: 14 – 2009: 7 – 2010: 14

Since the inception of the programme in 1993, a total of 210 scholars have been hosted from over 60 countries (see implementation report 2010 attached)

### ***What is the average length and amount of a scholarship?***

The **average period** is 2 months which is the recommended length based on the experience of the Secretariat. To be profitable for the scholar, we insist in a minimum period of 6 weeks. Exceptionally longer period are possible – notably when the donor so requests (as did the UK Foundation for uniform law). Else, a scholar supported by a scholarship may extend his / her stay on an independent basis (relying on external financial support).

The **average cost** is 1500 E. per month (accommodation and living expenses) (this figure may vary depending on the actual cost of housing).

UNIDROIT supports the concept of partial scholarships as an inducement to candidates to secure their own supplementary funding: the UNIDROIT grant covers half of the full amount required for a two-month stay, provided the scholar covers – personally or through his institution of origin – the other half. UNIDROIT is also committed to instituting joint scholarships with national universities or research centres (such co-operation has been successfully implemented with the Universidad argentina de la Empresa, Buenos Aires)

***By what criteria are the applications pre-selected by the Secretariat?***

All eligible applications (i.e. formally complying with the requirements) are submitted to the scholarships committee (with the full applications including the research project and reference letters). Members formulate particular comments or recommendations on individual candidates as they may wish; as a rule, the Secretary General receives mandate to proceed to the final selection on the basis of the general selection criteria which have been determined by the Committee as follows – and subject to any particular requirement imposed by the donor:

- "(a) preference is to be given to applicants whose subject has a bearing on the Institute's past or present activities (subjects on the current Work Programme, and in general dealing with private law in the broadest sense);
- (b) preference is to be given to graduate or post-graduate level applicants;
- (c) bearing in mind the objective of achieving the widest possible geographical distribution as far as the beneficiaries' countries of origin are concerned;
- (d) preference is to be given to applicants whose research project is likely to result in the greatest practical application;
- (e) preference is to be given to applicants whose linguistic skills will enable them to derive maximum benefit from the Library's bibliographical resources."

***Describe the type of practical assistance or mentoring provided or facilitated by the Secretariat (e.g. travel, housing, research orientation, bibliography suggestions etc.)***

Prior to the stay at UNIDROIT: preliminary contacts with a view to the issuance of the visa (official letter of invitation – as the case may be, direct contacts with the Italian Embassy). Arrangements regarding accommodation: assistance is provided with a view to keeping costs at a reasonable level. Once the period is agreed the scholar gets directly in touch with the landlord.

During the stay: general assistance on practical matters / logistics is provided if necessary (generally limited). For the research purposes: **1** - bibliographical guidance is provided as an extension of the presentation of the library resources - online catalogue, data bases etc. **2** – orientation for the research: depends on the scholar's background (whether experienced researcher), the research topic (whether related to the UNIDROIT work programme). **3** – general information on UNIDROIT: more or less substantial (simple overview by the official in charge of the scholarships programme – or series of lectures by the UNIDROIT staff). **4** - Other: depending on the particular profile and needs of the scholar (contacts with Embassy, other institutions or circles in Rome; exploring possible cooperation at other levels ...).

***How many publications have resulted from research supported by the scholarship programme? Are these published in the Uniform Law Review or elsewhere?***

The relevance of the potential practical applications of the research is precisely a selection criterion (cf. *supra* under (c)). Having in mind the benefit of increasing awareness on UNIDROIT work in the countries of origin, scholars are encouraged to write papers on UNIDROIT work, and have them published in periodicals in their home countries, and in the local language. The Secretariat is often informed of such publications. However no systematic record is kept by the Secretariat, therefore it is not easy to provide a fully informed answer to the question.

On many instances, the research at UNIDROIT produces benefits only months (or sometimes more than one year) after the actual stay (especially for scholars preparing a doctoral thesis). On certain occasions, a research stay may have served as a basis for several publications (articles or books). UNIDROIT requests that special acknowledgment be given to the UNIDROIT research program. It is fair to say that it is probably very rare that a research stay produces no spillover at all.

The scholars are welcome to submit a paper for publication in *Uniform Law Review*. All together 28 scholars have authored one or several contributions (article or otherwise) in ULR.

***Does the Secretariat receive regular feedback from scholars?***

The Secretariat keeps contact with a significant number of scholars – although with a majority this is on an episodic and informal – personal – basis, as in the era of Internet this is quite easy.

***Is there an evaluation mechanism in place?***

From the scholar: this is made on a systematic basis through the report which submitted by all scholars at the end of their stay. A general enquiry was conducted by the Secretariat among former scholars in 2000 – after 7 years of operation of the program – and again with a more limited scope in 2008 – for a feedback on the professional progression and assessment by scholars a few years after their research period. These enquiries gave ample testimony of the benefits that flew from the programme in the assessment of the beneficiaries. In addition to the benefits from the perspective of UNIDROIT (spillover and dissemination of UNIDROIT work), it must be indicated that many scholars have stressed the benefits (sometimes very important) that the research stay at UNIDROIT has produced on their career and professional development.

From UNIDROIT: a general evaluation is made in the annual implementation report on the program. Both documents (scholars' reports and UNIDROIT annual implementation reports) are submitted to the scholarships committee as well as to the donors.

***Has the programme had a noticeable impact in expanding awareness about UNIDROIT or in reaching out to non-member States? Give examples (at least ten, if possible)?***

The answer below focuses on non-member States but refers also to some member States where a special promotion of UNIDROIT work is certainly highly beneficial.

Academic dissemination: A majority of scholars have an academic background, and have devoted their research to a topic related to UNIDROIT activities. They were directed to writing a thesis, preparing teaching material, publishing articles (or books) on the subject in their countries of origin. It is certain that these scholars have done much to expand awareness and transmit informed knowledge on UNIDROIT in the academic world of countries which are far from the usual traditional reach (examples: Azerbaijan – UNIDROIT model law on leasing; Serbia – UNIDROIT work on leasing and on franchising; Indonesia, Uganda – Unidroit Principles of international commercial contracts; Turkey, Chili, Albania – UNIDROIT Convention on intermediated securities etc.).

Cooperation with groups of countries, regional organization: Several scholars were hosted from Cameroun: their stay was instrumental in setting the basis for the cooperation with OHADA, which paved the way to the request for the preparation of the draft uniform act on contract law. This cooperation has given considerable exposure to Unidroit and its work in many countries in West and Central Africa where Unidroit enjoyed no or very little awareness, opening the way to other opportunities, such as the Colloquium organized by UNIDROIT in Ouagadougou, Burkina Faso, in 2007 on contract law.

Preliminary contacts leading to the accession of the country: Several scholars were hosted from Indonesia: their stay was instrumental in setting the basis for the accession of Indonesia to UNIDROIT, which materialized in 2009.

Support to the ratification / implementation process of a UNIDROIT instrument: A certain number of scholars come from the government, and their research was part of the country's accession process to a UNIDROIT instrument or geared towards its implementation. It has been the case on several occasions that the actual ratification of accession followed. In particular: Slovenia: UNIDROIT Convention on of stolen and illegally exported objects; Belarus: UNIDROIT Convention on International Financial Leasing. Recently, scholars from Latvia and Nepal researched on the Cape Town instruments in this perspective.

Support to the participation of the country to UNIDROIT meetings: this occurred in a number of instances, for UNIDROIT governmental experts meetings or diplomatic conferences (Albania and Ukraine: Geneva diplomatic Conference on substantive rules applicable to intermediated securities), or else to other kinds of meetings (for example several former scholars participated or had their countries participating in the Seminar on the draft Rail Protocol to the Cape Town Convention, organized by UNIDROIT in Warsaw to enhance interest and participation by Central and Eastern European countries April 2004).

***Are there external contributors to the scholarship programme?***

In 2010, the contributors to the scholarships programme were UNIDROIT (general budget) and the following external donors for a total amount of: 29.859,03 Euros:

UNIDROIT – Chap. XI	33,49 %
Government of the Republic of Korea (for Asian candidates)	25,13 %
UK Foundation for International Uniform Law	20,08 %
US Foundation for International Uniform Law	15,07 %
UNIDROIT Governing Council Scholarship	6,23 %

***What is the total personnel cost of the scholarship programme per year?***

As indicated in the Work Programme for the 2011-2013 triennium (UNIDROIT 2010 – A.G. (67) 3), the staffing costs can be assessed in € 17.100 for Professional staff (Ch. 2.1, 3.1) and € 14.450 for General services (Ch. 2.1, 3.1) for a total of **€ 31.550**.