



GOVERNING COUNCIL
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UNIDROIT 2007
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**Item No. 9(a) on the Agenda: preliminary draft Convention on Substantive Rules
regarding Intermediated Securities**

(memorandum submitted by the Secretariat)

<i>Summary</i>	<i>Progress Report</i>
<i>Action to be taken</i>	<i>See paras 2 and 6 below</i>
<i>Related documents</i>	

Priority			
	High	medium	low

I. Strategic Plan

Yes, because criteria set forth in Strategic Objective Nos. 1 and 7 satisfied

II. Work Programme 2006-2008

Yes.

III. Current assessment

- Recent feedback from Governments and intergovernmental Organisations (IMF, World Bank, European Commission): highest priority and completion as early as possible.
- Recent feedback from industry: high (Group of Thirty, ISDA).

Benefits/ Beneficiaries	<p>Establishing a common legal framework of holding, custody, disposition, collateral taking, clearing and settlement of trades for a market worth USD 50 trillion and trades and collateral transactions in corporate and government securities issued by OECD member Governments amounting to USD 2 trillion per day would enhance legal certainty, reduce systemic risks for the world's financial markets and reduce transaction costs.</p> <p>Beneficiaries are investors, intermediaries and governments as regulators and guardians of financial stability.</p>		
On time	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	yes	slightly delayed	no
	Timeframe determined by CGE/Governing Council/General Assembly <input checked="" type="checkbox"/>		
	Timeframe to be determined at this session <input type="checkbox"/>		
Staffing implications	<p>1 Officer; until now 1.0 associate Officer (<i>volontaire international</i>) 1.0 Secretary. Both offices to be replaced.</p>		
Budget implications	Private-sector funding of post for managing officer until end 2007		

BACKGROUND

1. The Committee of governmental experts held its third session from 6 to 10 November 2006. The draft text (cf. Doc. 57, annexed to this document) was again significantly restructured and improved. The planned date for a diplomatic Conference to adopt the text (November/December 2007) had to be pushed back to early 2008 for practical reasons. The Government of Switzerland has announced that it is, in principle, prepared to host the diplomatic Conference. A formal decision is expected to be taken in the second half of 2007.
2. The maturity of the draft already reached allows to predict that, at the outcome of the fourth session of the Committee next May, the text will be ripe for transmission to a diplomatic Conference for adoption. In the event that the Government hosting the Conference as well as the Governments represented at the fourth session express the desire that the Conference be held before the next session of the Council, the Council would need to approve the transmission to the Conference in a written procedure. The Secretariat would submit the draft text, together with a report on the fourth session, to the Council as early as possible requesting the Council to approve.
3. The Committee of governmental experts will hold its fourth session from 21 to 25 May 2007. It is planned to devote most of the session to the situation of so-called "transparent systems", i.e. a heterogeneous group of States under whose laws the account holder – or: "ultimate investor" – can be identified notwithstanding the multi-tier chain of intermediaries linking the investor with the upper tier, i.e. the Central Securities Depository and, eventually, the issuer.

4. In the summer of 2006, the European Commission approached the Secretariat and enquired about the possibility of seconding the officer in charge of the project to the Commission with a view to co-ordinating the – more advanced – UNIDROIT project and the European Communities' so called "Legal Certainty Project" which to a large extent covers the same problem areas. Against the background of the significant synergies of having both projects administered by same person and the non-European delegations, the managing officer's as well as the private-sector donor's agreement, the President and Secretary-General acceded to the European Commission's request. The contract under Article 48 of the Regulations sets forth the rights and duties of the seconded collaborator during his secondment. His duties encompass, in particular, participation in the preparation of forthcoming meetings and the diplomatic Conference as well as the drawing up of the respective reports.

ACTION TO BE TAKEN

5. *The Governing Council is invited (a) to approve the procedure as outlined supra, par 2; (b) to support the participating Governments and the Secretariat's efforts to ensure that the consultation process does not suffer from set-backs and can be completed at a diplomatic Conference as early as possible in 2008.*