



**GENERAL ASSEMBLY**  
**60<sup>th</sup> session**  
**Rome, 1 December 2006**

UNIDROIT 2006  
A.G. (60) 2  
Original: English  
October 2006

**Item No. 6 on the Agenda: Statement regarding the Institute's activity in 2006 and  
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. The Governing Council has reviewed the document. The priority grade accorded to the items on the Work Programme is indicated.</i>
<i>Action to be taken</i>	<i>The General Assembly, at its 60<sup>th</sup> session, will be called upon to review the document and to advise the Governing Council, in advance of its 86<sup>th</sup> session, to be held from 16 to 18 April 2007, of member Governments' views in particular regarding priorities accorded to individual items.</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 2006 AG (60) 6</i></li><li>• <i>UNIDROIT 2002 IBS Doc. 1 and 2</i></li></ul>

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## I. Implementation in 2005/2006

### 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

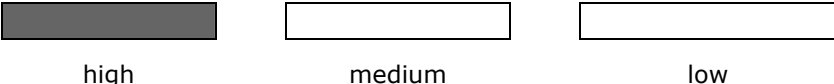
### *Principles of International Commercial Contracts*

- 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.

- Preparatory research was carried out on these topics. The Working Group held its first session from 29 May to 1 June 2006.

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

- In 2006, the UPICC were presented by members of the Secretariat and discussed at seminars and conferences in Brazil, Egypt, Switzerland, Thailand, the United Kingdom and the United States of America.

<b>Assessment of progress</b>	good, on time to be finalised in 2009/10
<b>Benefits/ Beneficiaries</b>	Reform legislators, contract drafters, arbitrators
<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>	regular budget (AG(60)6, Exp. Ch. 1, Art. 5; Ch. 2; Ch. 3)
<b>Priority acc. by Governing Council</b>	 <div style="display: flex; justify-content: space-around; width: 100%;"> <span>high</span> <span>medium</span> <span>low</span> </div>

### *International Interests in Mobile Equipment*

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

- Following the deposit of the eighth instrument of ratification or accession the Aircraft Protocol entered into force on 1 March 2006. It is now in force in thirteen States: Afghanistan, Angola, Ethiopia, Ireland, Kenya, Malaysia, Mongolia, Nigeria, Oman, Pakistan, Panama, Senegal, United States of America.

- Assistance was provided for the ongoing implementation process in another nine States in Africa, Asia, the Middle East and the Americas. For the depository 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 Brazil, China, India, Togo, Switzerland and the United Kingdom.




- 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 Diplomatic Conference for the adoption of the draft Protocol will be held in Luxembourg from 12 to 23 February 2007.

**(c) Preliminary draft Space Protocol**

- Due to lack of resources the Secretariat's activities regarding this project were seriously curtailed. A high-level industry meeting was held in London; the objective was to renew industry pledges to support the project.

<b>Assessment of Progress</b>	Convention and Aircraft Protocol good. Draft Rail Protocol satisfactory. Preliminary draft Space Protocol unsatisfactory.
<b>Benefits/Beneficiaries</b>	<ul style="list-style-type: none"> <li>• Rail Protocol: rail operators in particular in Central and Eastern Europe, Africa, Central Asia and Central America; manufacturers' and financiers of railway rolling stock.</li> <li>• Space Protocol: in particular Governments in developing countries, start-up satellite operators, manufacturers and financiers of satellites.</li> </ul>
<b>Staffing</b>	2.25 officers; clerical support
<b>Funding</b>	<p>(1) 1.25 officers and clerical support regular budget (AG(60)6, Exp. Ch. 2; Ch. 3); 1.0 officer extra-budgetary funding member States (AG(60)6, § 9)</p> <p>(2) Printing the Acts and Proceedings: € 18,500 under the regular budget (AG(60)6, Exp. Ch. 5)</p>
<b>Priority acc. by Governing Council</b>	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  high         </div> <div style="text-align: center;">  medium         </div> <div style="text-align: center;">  low         </div> </div>

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

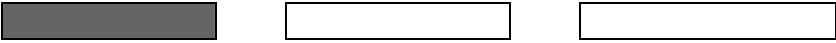
**(a) Preliminary Draft Convention on Intermediated Securities**

- Two 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 Berne (Switzerland), São Paulo (Brazil), Paris (France), Berlin (Germany), Moscow (Russian Federation), Beijing (People's Republic of China) and Madrid (Spain).

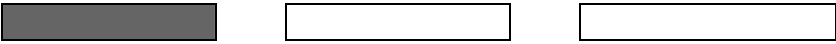
**(b) General aspects of transactions on transnational capital markets and emerging markets project**

- A conference on “Enhancing the Role of Emerging Markets” organised by the Securities Exchange Board of India and the India International Law Foundation was held in Mumbai (India). Members of the Secretariat, the former Study Group on intermediated securities and experts from member States made presentations. The Secretariat deferred further activities until such time as conclusion of one of the other projects will make resources available.

<b>Assessment of Progress</b>	good, on time
<b>Benefits/Beneficiaries</b>	Increasing legal certainty in global custody, clearing and settlement; reducing systemic risk
<b>Staffing</b>	2.75 officers (including translation); clerical support
<b>Funding</b>	2.5 officers extra-budgetary (1.0 industry, 1.0 on secondment, 0.5 <i>volontaire internationale</i> (AG(60)6, § 11 and 12); 0.25 officer (translation) and clerical support regular budget (AG(60)6, Exp. Ch. 2, Ch. 3)
<b>Priority acc. by Governing Council</b>	 <div style="display: flex; justify-content: space-around; width: 100%;"> <span>high</span> <span>medium</span> <span>low</span> </div>

***Model Law on Leasing***


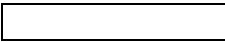
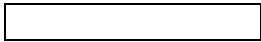
- Three sessions of the Advisory Board were held. The Secretariat and the UNCITRAL Secretariat held a co-ordination meeting, and measures to make the Model Law compatible with the UNCITRAL Legislative Guide were agreed upon. A first session of a Committee of governmental experts/industry conference will be held in Africa, and thereafter further consultations among Governments and the Governing Council will, hopefully, lead to its approval by the Council and transmission to the General Assembly for adoption in early 2007.

<b>Assessment of progress</b>	good, on time
<b>Benefits/Beneficiaries</b>	Primarily African, Asian and Latin American countries in need of leasing legislation.
<b>Staffing</b>	0.20 officer; 1.0 associate officer; clerical support
<b>Funding</b>	1.0 associate officer extra-budgetary funding by law firm (AG(60)6, § 12); 0.20 officer (supervising and translation) and clerical support regular budget (AG(60)6, Exp. Ch. 2, Ch. 3)
<b>Priority acc. by Governing Council</b>	 <div style="display: flex; justify-content: space-around; width: 100%;"> <span>high</span> <span>medium</span> <span>low</span> </div>

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

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

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

<b>Assessment of quality and effectiveness</b>	good		
<b>Staffing</b>	1.0 officer		
<b>Funding</b>	Extra-budgetary funding by member States runs out 31 August 2007; follow-up funding requested in draft budget 2007 (AG(60)6, § 9) (see also <i>infra</i> , II 1 b).		
<b>Priority acc. by Governing Council</b>	 high	 medium	 low

### *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 monitored and advised on implementation as well co-organised and/or participated in seminars and conferences aimed at raising awareness of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects in Algeria, Bosnia-Herzegovina, Cuba, France, Mexico, Spain and the Former Yugoslav Republic of Macedonia as well as UNESCO's celebrating the tenth anniversary of its adoption.
- As of 31 December 2005, the Convention had twenty-seven Contracting States.

<b>Assessment of quality and effectiveness</b>	good	
<b>Staffing</b>	0.30 officer	
<b>Funding</b>	Regular budget (AG(60)6, Exp. Ch. 2, Ch. 3, Ch. 10); participation in conferences is unfortunately limited to cases where expenses can be reimbursed by organisers.	

### *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 and Turkish. Spanish and Russian versions are under preparation.

- In 2006, the PTCP were presented by the Secretary-General and experts from member States at seminars, conferences and workshops in Brazil, France, Germany, Thailand and the United Kingdom.

## 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*

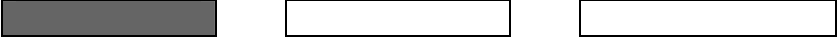
- In 2005 and 2006, 25 researchers from Argentina, Azerbaijan, Belarus, Bulgaria, Cameroon, Chile, People's Republic of China, Costa Rica, Egypt, Lao People's Republic, Moldavia, Morocco, Poland, Russian Federation, Serbia and Montenegro, Tunisia, Turkey and Uruguay with different professional backgrounds (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 transmitted an amended version of a preliminary draft OHADA Uniform Act on contract law to the OHADA Permanent Secretariat. This draft as well as a draft on consumer contracts are awaiting vetting by national committees and adoption by the Council of Ministers.
- 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.

<b>Assessment of quality and effectiveness</b>	good
<b>Benefits/ Beneficiaries</b>	Effective dissemination of knowledge about UNIDROIT instruments and, generally, transnational private and commercial law. Networking, in particular with Governments and academic institutions in developing countries.
<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>	(1) scholarships: € 15,000 regular budget (AG(60)6, Exp. Ch. 11); € 8,075 extra-budgetary (Republic of Korea) (2) technical assistance: € 6,000 regular budget; € 120,000 extra-budgetary (Switzerland); € 8,000 private donations (3) staff: regular budget (AG(60)6, Exp. Ch. 2; Ch. 3)
<b>Priority acc. by Governing Council</b>	 <div style="display: flex; justify-content: space-around; width: 100%;"> <span>high</span> <span>medium</span> <span>low</span> </div>




## 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 is advancing rapidly;
- The Library's holdings increased by close to 2,500 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 3,000 users from 20 countries (Argentina, Australia, Austria, Belgium, Brazil, Chile, China, Finland, France, Germany, Hungary, Italy, Japan, Mexico, Nigeria, Portugal, Spain, Turkey, United Kingdom, United States of America) carried out research in the Library.

<b>Assessment of quality and effectiveness</b>	good
<b>Benefits/ Beneficiaries</b>	Visiting users, in particular recipients of research scholarships. To the extent that catalogue is already available on-line, Governments, researchers and other remote users.
<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 assistant librarian, 0.8 assistant librarian (the remaining 20% of whose time is devoted to usher's tasks), 0,2 secretary






<b>Funding</b>	(1) purchase of books and other costs (€ 113,500) regular budget (AG(60)6, Exp. Ch. 9); donations worth € 99,000 (2) staff regular budget (Exp. Ch. 2; Ch. 3); assistance by 18 volunteers from ELSA (European Law Student Association) (AG(60)6, § 12)		
<b>Priority acc. by Governing Council</b>	 high	 medium	 low

### ***Publications***

- The flagship, *Uniform Law Review/Revue de droit uniforme*, celebrated its tenth anniversary as 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 *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 help maintain the Library's stocks. Following up on a suggestion by one member State's Government the Secretariat is currently exploring whether production costs can be further reduced.

- The English version of the *Acts and Proceedings* of the Diplomatic Conference held in Cape Town has been published.

- 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 *Guide to International Master Franchise Arrangements* which was posted on the website.

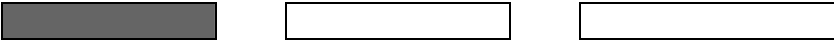
<b>Assessment of quality and effectiveness</b>	good		
<b>Benefits/Beneficiaries</b>	Cf. <i>supra</i> , introductory text.		
<b>Staffing</b>	0.80 officer (the remaining 20% of whose time is devoted to legal co-operation); 1.2 editorial secretary; occasional contributions from other officers		
<b>Funding</b>	Regular budget (AG(60)6, Exp. Ch. 5); credit balance between expenditure and receipts (2005 = € 38,000)		
<b>Priority acc. by Governing Council</b>	 high	 medium	 low

### ***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,

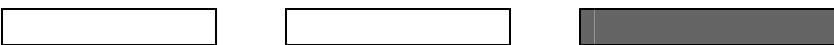
however, it has necessarily continued to be a low-cost site so that other features common to most modern commercial as well as governmental websites are not available.

- 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>Benefits/Beneficiaries</b>	Governments, researchers and other remote users wishing to access UNIDROIT documents and other resources.
<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 (AG(60)6, Exp. Ch. 2; Ch. 3)
<b>Priority acc. by Governing Council</b>	 <div style="display: flex; justify-content: space-around; width: 100%;"> <span>high</span> <span>medium</span> <span>low</span> </div>

#### ***UNILAW Database***

- Number of cases on the 1956 Convention on Contracts for the International Carriage of Goods by Road (CMR) fully treated and visible to the public almost doubled over last year but are still few (300). Another 1,500 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; effectiveness still impossible to assess
<b>Benefits/Beneficiaries</b>	Courts and arbitrators called upon to interpret and apply international uniform law; counsel representing parties in litigation and arbitration; researchers; Governments and legislators working with international uniform law, in particular in drafting implementation legislation.
<b>Staffing</b>	0.4 officer; part-time assistant for document processing
<b>Funding</b>	Officer regular budget (AG(60)6, Exp. Ch. 2; Ch. 3); part-time assistant extra-budgetary funding (private donation); partial reimbursement for services rendered by officer requested for 2007 from private donors.
<b>Priority acc. by Governing Council</b>	 <div style="display: flex; justify-content: space-around; width: 100%;"> <span>high</span> <span>medium</span> <span>low</span> </div>

### 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 Latvia deposited its instrument of accession, thereby becoming the 60<sup>th</sup> member State. Ukraine and Lithuania announced their 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 and the Embassy of the Republic of Angola in Italy at the embassies' request.
- Intensive efforts to re-establish communication with Bolivia may bear fruit in connection with work on the draft Model Law on leasing.
- During the past 15 months, the Secretary-General and members of the Secretariat made official visits to, lectured or participated in seminars in: Algeria, Austria, Brazil, China, Egypt, France, Germany, Hungary, India, Indonesia, Ireland, Italy, Latvia, Lithuania, the Former Yugoslav Republic of Macedonia, Serbia and Montenegro, Spain, Switzerland, Thailand, 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, Canada, France, Latvia, Lebanon, Republic of Korea, Russian Federation, Spain, United Kingdom.
- In 2005/2006, the Secretariat paid visits to or participated in meetings of the following governmental and non-governmental international Organisations: European Union, G30, Hague Conference on Private International Law, International Chamber of Commerce, ICPO-Interpol, International Finance Corporation, International Monetary Fund, International Trade Center (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.

- Some 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 for the 85<sup>th</sup> session 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 2006/2007 and midterm

### 1. Legislative Activities including Implementation and Promotion of Instruments

#### A. Work in Progress

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

- The first meeting of the new Working Group has been held from 29 May to 1 June 2006. A record number of 15 arbitral institutions and other organisations with special expertise have attended as observers.

- Finalisation of the integral Spanish version is imminent. Agreements for the translation into Arabic, Farsi, Portuguese, Russian, Slovak, Thai and Turkish have been signed.

<b>Staffing</b>	It is expected that preparation of the Spanish version for print will require the publication officer to devote some time.
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<b>Funding</b>	Translation into Arabic will be subsidised from the regular budget in an amount of € 11,000 (amortized with the sale of 160/200 copies) (AG(60)6, Exp. Ch. 2.2; Ch. 5)
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##### *International Interests in Mobile Equipment*

- Prior to a diplomatic Conference for the adoption of the draft Rail Protocol in February 2007 a regional preparatory seminar for Africa will take place in Lomé (Togo) on 17 November 2006.

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

***Preliminary Draft Convention on Intermediated Securities***

- A third session of the Committee of governmental experts will be held from 6 to 14 November 2006. If necessary, a fourth session will be held in early 2007. In any event, it is envisaged to hold a diplomatic Conference for the text's adoption in 2007. 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>
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Both leading and assisting officers not funded under regular budget but from extra-budgetary donation and seconded from member State Government respectively. Agreement for funding in 2007 signed.

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

***Depositary Functions***

- It is expected that, following the example of the 2001 diplomatic Conference in Cape Town, the diplomatic Conferences due to adopt the draft Rail and Space Protocols will request UNIDROIT to assume the depositary functions under those future treaties as well (cf. also Articles 47-62 of the Convention). As will be recalled, in 2001 the Governments of Italy and South Africa urged UNIDROIT to assume the depositary functions.

- 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 and in cases where the United Nations are not in a position to attend to the depositary functions, 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) and subsequent declarations by the Governing Council and member Governments to this effect, careful consideration would be given to any future request from other Governments, provided the necessary funding can be secured.

<b>Staffing / Funding</b>
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Extra-budgetary funding of officer attending to depositary functions to run out on 31 August 2007; follow-up funding requested in draft budget 2007 (AG(60)6, Exp. Ch. 2; Ch. 3).

**2. Non-legislative Activities**

- With respect to the research and outreach resources in general, reference is made to the respective project-related documents prepared for the 85<sup>th</sup> session of the Governing Council C.D. (85) 12 – C.D. (85) 16.

- 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 (e.g. Angola, Mozambique).

- 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 2006/2008. 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 early 2007 in Indonesia. The principal target group would be Indonesian Government officials tasked with implementing transnational private-law instruments domestically as well as judges seised 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 Australia, 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>	<ol style="list-style-type: none"> <li>(1) Indonesia workshop first semester 2007: 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>(2) Further steps in "ASEAN Initiative": to be assessed.</li> </ol>

- The Government of the Netherlands has pledged funding of the participation of two experts in the capacity-building workshop. Justice James Allsop of the Federal Court of Australia has indicated his preparedness to participate as instructor in the workshop. The Government of Korea indicated that best efforts would be made to make an extra-budgetary contribution towards the costs for the organisation of the seminar. Mr Hosokawa (member of the Governing Council) indicated that an as yet to be identified Japanese expert would be made available for the workshop. The Government of China indicated that an application for funding in 2007 would be considered favourably.

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\* 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, 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, and up-to-date personnel management generally. For this to materialise and 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 permanent funding under the regular budget. Generous extra-budgetary contributions of two times £ 50,000 (= € 74,000) for the current and the next financial year 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>
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in 2007, need to fund both positions on the regular budget; categorisation (A 6 and A 2.4 respectively) to be envisaged for 2008 subject to availability of funding under regular budget or from extra-budgetary contributions (AG(60)6 § 8; § 9; Exp. Ch. 2; Ch. 3)

- It is recalled that the officer in charge of the economically by far most important project on the Work Programme (draft Convention on Intermediated Securities) has been funded throughout his employment (i.e. since May 2002) from extra-budgetary contributions (to date € 250,000) placed at the Institute's disposal by the German Banking Federation. An agreement for follow-up funding during 2007 has been signed.

##### *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 the plan to seise the General Assembly of discussing and adopting the Model Law on leasing at an extra-ordinary session in early 2007 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).

#### 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 draft Rail Protocol and 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. As regards the priority grade accorded by the Governing Council, the Secretariat wishes to draw the General Assembly's attention to the fact that certain projects, while included by the Assembly in the current triennial Work Programme, are either on hold (e.g. emerging securities markets) or not yet shown in this update of the Strategic Plan.

3. 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.

4. With respect to the review of internal administrative processes and infrastructure, the continued absence 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.

5. 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.

6. 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.