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Item No. 5 on the agenda: Triennial Work Programme 2009-2011

(submitted by the UNIDROIT Secretariat)

<i>Summary</i>	<i>Consideration of the Work Programme for the 2009-2011 triennium</i>
<i>Action to be taken</i>	<i>To take note of the costing of projects in the current Work Programme, approve its extension for the year 2010, and authorise preliminary research by the Secretariat with a view to the preparation of a new Work programme for the triennium 2011-2013</i>
<i>Related documents</i>	<i>UNIDROIT 2008 – A.G. (63) 10; UNIDROIT 2009 – C.D. (88) 7 and C.D. (88) Misc. 3 Corr.</i>

I. Introduction

1. In accordance with Article 5 (3) of the UNIDROIT Statute, it is incumbent upon the General Assembly at its 65th session to approve the Work Programme for the 2009-2011 triennium.

2. In determining the criteria for future UNIDROIT Work Programmes, the Council and the General Assembly have established the following guidelines (for details, see UNIDROIT 2005 - C.D. (84) 19; A.G. (59)4):

(a) *Clear evidence of potential benefits*, to be assessed against Governments', relevant international Organisations' and the concerned industry's request that UNIDROIT undertake work;

(b) *Persuasive arguments* that UNIDROIT is better placed than other Organisations to carry out work on a specific project;

(c) *No risk of duplication or harmful overlap* with work underway in other Organisations as well as safeguards for proper co-ordination among Organisations;

(d) Ensure that, at any point in time, at least one of the items featuring on the Programme be clearly *aimed at the needs of developing countries*;

(e) Realistic and predictable timelines for completion;

(f) *Adequate funding* under the regular budget or by earmarked extra-statutory or private sector contributions.

3. This document provides information on the current Work Programme, as approved in part by the General Assembly at its 63rd session (Rome, 11 December 2008), as well as on various topics proposed for inclusion in the triennial Work Programme (see, in particular, UNIDROIT 2009 – C.D.(88) 7 Addenda 1-6).

4. A number of member States have in recent years requested the Secretariat to submit detailed information on the costs of the various projects carried out by the Institute. The present document includes information, in monetary terms, on the proposed allocation of resources to the various projects and activities of the Institute for the financial year 2010, on the basis of the Work Programme and the draft budget being submitted to the General Assembly for approval at its current session.

II. Earlier recommendations by the Council and General Assembly decision

5. At its 87th session, the Governing Council examined the triennial Work Programme of the Institute on the basis of the Secretariat's survey with Governments, international Organisations and industry as well as with the Institute's correspondents (see UNIDROIT 2008 – C.D. (87) 12).

6. Following an in-depth discussion, the Governing Council made, *inter alia*, the following recommendations to the General Assembly in respect of the Work Programme for the triennium 2009-2011:

- (a) With respect to *legislative activities*, priority should be accorded to
 - (i) Finalisation of the additional chapters of the UNIDROIT Principles of International Commercial Contracts currently under preparation;
 - (ii) Finalisation of the Space Protocol to the Cape Town Convention;
 - (iii) work on an instrument on netting in financial services, a legislative guide on principles and rules capable of enhancing trading in securities in emerging markets and, resources permitting and possibly included in that guide, rules facilitating convergence of national investor classification systems.

7. The Governing Council concluded its recommendations with an invitation to the General Assembly to provide for some margin of discretion so as to permit the incoming Secretary-General personally to assess the situation in the light of available resources and to sharpen the Work Programme's profile in accordance with the Strategic Plan (UNIDROIT 2008 – C.D. (87) 23, para. 118).

8. At its 63rd session, the General Assembly was informed of the progress made in the implementation of the work programme (A.G. (63) 4). The General Assembly noted, in particular, the work that remained to be done to finalise the draft Convention on Substantive Rules Regarding Intermediated Securities, then under negotiation, including the work related to the preparation of an Official Commentary to the Convention, as requested at the first session of the diplomatic Conference (Geneva, 1-12 September 2008). In the light of that information, the General Assembly decided to assign the highest priority to "the finalisation of the draft Convention on intermediated securities, the additional chapters of the UNIDROIT Principles of International Commercial Contracts currently under preparation and the Space Protocol to the Cape Town Convention." The General Assembly also agreed to "reconsider the Work Programme

at its next session in the light of any recommendations to that effect that the incoming Governing Council and the Secretary-General may then submit" (see UNIDROIT 2008 – A.G. (63) 10, para. 31).

III. Recommendations made by the Council at its 88th session

9. At its 88th session (Rome, 20-23 April 2009), the Governing Council considered the progress that had been made in respect of all projects and activities included in the current work programme. The Council noted the work that remained to be done in the years 2009 and 2010 in connection with the projects expressly mentioned by the General Assembly at its 63rd session and considered a number of proposals for future work, once resources currently committed to ongoing projects became available. The Governing Council:

(a) Confirmed its recommendation concerning the level of priority to be assigned to the finalisation of the following projects:

- (i) The draft Convention on intermediated securities finalisation;
- (ii) The additional chapters of the UNIDROIT Principles of International Commercial Contracts; and
- (iii) The Space Protocol to the Cape Town Convention.

(b) Recommended to the General Assembly that work on a Legislative Guide on principles and rules capable of enhancing trading in securities in emerging markets should be included in the Institute's Work Programme;

(c) Took note of the depositary functions, promotion efforts and non-legislative activities carried out by the Secretariat and confirmed their position in the Institute's Work Programme;

(d) Mandated the Secretariat to do preliminary research, and, as appropriate, consult with member States' governments, interested international organisations, and industry to ascertain the level of potential interest for, and the feasibility of, a number of possible additional topics, and to lay the results of those consultations and preliminary conclusions before the Governing Council at its 89th session in 2010. Those topics are:

- (i) Preparation of an additional protocol on matters specific to agricultural, mining and construction equipment;
- (ii) Proposal for a convention on the netting of financial instruments;
- (iii) Possible future work on civil liability for satellite-based services;
- (iv) Proposal for a model law on the protection of cultural property; and
- (v) Possible future work in the area of private law and development.

10. Information on the progress made in connection with the items mentioned in paragraph 9(a)(i) to (iii) is provided elsewhere (see document UNIDROIT A.G. (65) 2). However, for the purposes of the General Assembly's consideration of the work programme, it may be useful to recall that the final session of the diplomatic Conference to adopt a Convention on Substantive Rules for Intermediated Securities took place in Geneva, at the invitation of the Government of Switzerland and under the auspices of UNIDROIT from 5 to 9 October 2009. On 9 October, the Conference adopted the Convention (which the Conference decided should be known as "the

Geneva Securities Convention”) and requested the Secretariat to provide support to, and coordinate the finalisation of, the Official Commentary, which should reflect the amendments made to the text at the final session and take into account the comments made by all negotiating States and participating observers.

11. In the light of the above the Secretariat requests that the General Assembly:

(a) Extend the current Work Programme for another year in respect of all current activities mentioned in paragraph 9(a) to (c) above, assigning the highest priority to the items mentioned in paragraph 9(a)(i) to (iii);

(b) Authorise the Secretariat to carry out initial research and conduct the necessary consultations with a view to providing the Governing Council the information it needs in order to make proposals for a new Work Programme for the triennium 2011-2013, in particular as regards the possible inclusion of any of the items mentioned in paragraph 9(d)(i) to (v) above.

12. The Annex to this memorandum sets out the expected financial implications of the above request in relation to the year 2010.

ANNEX

STATEMENT OF FINANCIAL IMPLICATIONS

I. Current Work Programme: legislative activities ¹A. Principles of International Commercial Contracts (UPICC) – 3rd edition ***

Information on this project and the progress made since the 63rd session of the General Assembly session is provided elsewhere (see document UNIDROIT A.G. (65) 2). The project is expected to be finalised in 2010. For the year 2010, the Secretariat envisages the following allocation of resources:

Staffing costs	Professional staff (Ch. 2.1, 3.1)	€	65,650
Conference costs	Meetings in 2009 (Ch. 1.5)		45,000
	Technical services (Ch. 6.5)		4,000
	Official journeys for drafting sessions (Ch. 1.6)		5,000
Consultation / promotion			0
Documentation / translation	Professional staff (Ch. 2.1, 3.1)		35,350
Total		€	155,000

B. Preliminary draft Space Protocol

Information on this project and the progress made since the 63rd session of the General Assembly session is provided elsewhere (see document UNIDROIT A.G. (65) 2). The project is expected to be substantially finalised in 2010 and adopted in the second quarter of 2011. For the year 2010, the Secretariat envisages the following allocation of resources:

Staffing costs	Professional staff (Ch. 2.1, 3.1)	€	118,305
	General services (Ch. 2.1, 3.1)		24,250
	<i>Since February 2008, 1 associate officer funded by private donors (€ 4,000/month)</i>		
Conference costs	CGE: FAO premises (Ch. 1.5)		10,000
	Interpreters (Ch. 6.5)		7,500
Consultation / promotion	Official journeys (Ch. 1.6)		3,000
Documentation / translation	Professional staff (Ch. 2.1, 3.1)		14,980
Total		€	178,035

¹ Priority accorded by the Governing Council: high *** – medium ** – low *.
The figures given in this document correspond to the 2010 draft Budget.

C. Geneva Securities Convention

Information on this project and the progress made since the 63rd session of the General Assembly session is provided elsewhere (see document UNIDROIT A.G. (65) 2). The Geneva Securities Convention was adopted on 9 October 2009. The project is expected to be finalised in 2010 with the publication of the final text of the Convention and the completion of the revisions to the Official Commentary. For the year 2010, the Secretariat envisages the following allocation of resources:

Staffing costs	Consultancy services (Ch.2.1)	20,000
	General services (Ch. 2.1, 3.1)	16,700
Conference costs	Meeting of the Steering Committee charged with the finalisation of the Official Commentary	4,000
	Technical services (Ch. 6.5)	
Consultation / promotion	Official journeys (Ch. 1.6)	5,000
Documentation / translation	Professional staff for translations (Ch. 2.1, 3.1)	40,800
	Postage (Ch. 6.3)	3,000
Total		€ 89,500

D. Principles and Rules capable of enhancing trading in securities in emerging markets

At its 88th session, the Governing council decided to recommend to the General Assembly that work on such a Legislative Guide should be included in the Institute's Work Programme and mandated the Secretariat to start a feasibility study for this project for submission to the Governing Council at the following year's session. In the year 2010, the Secretariat envisages to start work on a Guide to Enactment, or an Accession Kit, to the Geneva Securities Convention. Such a Guide to Enactment, which might become part of a broader legislative guide or it might be a separate product of UNIDROIT, would provide some advice for countries that ratify the Geneva Securities Convention on how best to incorporate that Convention and integrate it into the domestic legal system. To that end, the Secretariat envisages the following allocation of resources:

Staffing costs	Consultancy services (Ch. 2.1)	€ 10,000
Conference costs	Study Group (Ch. 1.5)	5,500
Total		€ 15,500

II. Preliminary research and consultations in connection with possible future work (triennium 2011-2013)

The preliminary research and consultations to be carried out by the Secretariat in connection with any of the items mentioned in paragraph 9(d)(i) to (v) of this report above is intended only to provide the Governing Council with sufficient information so as to decide which items should be recommended to the General Assembly to be included in the work programme for the next triennium and which level of priority should be allocated to each of them. Given the very tentative and exploratory stage of consideration of those topics, it is not envisaged that the research and consultation activities would demand more than 5% (five per cent) of the time of the officers to whom they might be assigned. Neither are any official journeys being planned in that connection.

The Secretariat, therefore, submits that the financial implications of the preliminary research and consultations in connection with possible future work in the year 2010 would be marginal only and could be easily absorbed within existing resources without any negative impact in the progress of projects or delivery of services covered by the existing Work Programme. Therefore, the Secretariat does not deem it necessary to provide separate statements of financial implications for such preliminary research and consultation.

Specific cost estimates for each project over a three-year period would however be prepared for consideration by the Governing Council, on the basis of feasibility studies that it requested the Secretariat to prepare.

III. Depositary Functions under the Cape Town Convention

Information on the Secretariat's depositary functions and the progress made since the 63rd session of the General Assembly session is provided elsewhere (see document UNIDROIT A.G. (65) 2). These functions are of an on-going nature. For the year 2010, the Secretariat envisages the following allocation of resources:

Staffing costs	Professional staff (Ch. 2.1, 3.1)	€ 63,900
Total		€ 63,900

IV. Promotion, implementation of adopted UNIDROIT instruments (or based on UNIDROIT drafts) and legal co-operation

A. Promotion and implementation

Information on the Secretariat's promotion activities and the action taken since the 63rd session of the General Assembly session is provided elsewhere (see document UNIDROIT A.G. (65) 2). These activities are of an on-going nature and typically undertaken in response to specific requests. A precise break-down of promotion activities is not feasible. For the year 2010, the Secretariat envisages the following allocation of resources for its promotion activities:

Staffing costs	Professional staff (Ch. 2.1, 3.1)	€ 77,160
	General services (Ch. 2.1, 3.1)	6,500
Conference costs	Interpreters / Technical services (Ch. 6.5)	2,000
Consultation / promotion	Consultation (1.6)	6,000
Documentation / translation	<i>Seminars and documentation to promote the Aircraft Protocol: € 30,000 (donation from the US Foundation)</i>	
	Professional staff (Ch. 2.1, 3.1)	20,340
	External translations (into languages other than English and French) (Ch. 10)	5,000
Total		€ 117,000

B. Legal co-operation

Information on the Secretariat's legal co-operation activities and the action taken since the 63rd session of the General Assembly session is provided elsewhere (see document UNIDROIT A.G. (65) 2). These activities are of an on-going nature. For the year 2010, the Secretariat envisages the following allocation of resources:

Staffing costs	Professional staff (Ch. 2.1, 3.1)	€ 14,950
Total		€ 14,950

V. Non-legislative activities

A. *Research Scholarship Programme / Internship Programme*

Information on the Secretariat's activities in this field and the action taken since the 63rd session of the General Assembly session is provided elsewhere (see document UNIDROIT A.G. (65) 2). These activities are of an on-going nature. For the year 2010, the Secretariat envisages the following allocation of resources:

Staffing costs	Professional staff (Ch. 2.1, 3.1)	€ 17,100
	General services (Ch. 2.1, 3.1)	14,450
Consultation / promotion		0
Other	Scholarships (Ch. 11.0)	10,000
	<i>A number of scholarships are funded by Governments of member States and by private donations</i>	
Total		€ 41,550

B. *UNIDROIT Library*

Information on the Secretariat's activities in this field and the action taken since the 63rd session of the General Assembly session is provided elsewhere (see document UNIDROIT A.G. (65) 2). The Library is a permanent part of the Institute. For the year 2010, the Secretariat envisages the following allocation of resources:

Staffing costs	Professional staff (Ch. 2.1, 3.1)	€ 2,100
	General services (Ch. 2.1, 3.1)	206,400
Purchase of books, legal journals, binding, software	Ch. 9	113,000
Total		€ 321,500

C. *Publications*

Information on the Secretariat's publication activities and the action taken since the 63rd session of the General Assembly session is provided elsewhere (see document UNIDROIT A.G. (65) 2). These activities are of an on-going nature. For the year 2010, the Secretariat envisages the following allocation of resources:

Staffing costs	Professional staff (Ch. 2.1, 3.1)	€ 45,000
	General services (Ch. 2.1, 3.1)	65,500
Conference costs		0
Consultation / promotion		0
Documentation	Postage (Ch. 6.3)	12,000
	Printing costs (Ch. 5)	31,500
Total		€ 154,000

D. Website and depository libraries

Information on the Secretariat's activities in this field and the action taken since the 63rd session of the General Assembly session is provided elsewhere (see document UNIDROIT A.G. (65) 2). These activities are of an on-going nature. For the year 2010, the Secretariat envisages the following allocation of resources:

Staffing costs	Professional staff (Ch. 2.1, 3.1)	€	14,100
Conference costs			0
Consultation / promotion			0
Documentation			0
Total		€	14,100

E. UNILAW database

Information on the Secretariat's activities in this field and the action taken since the 63rd session of the General Assembly session is provided elsewhere (see document UNIDROIT A.G. (65) 2). UNILAW is an on-going activity. For the year 2010, the Secretariat envisages the following allocation of resources:

Staffing costs	Professional staff (Ch. 2.1, 3.2) <i>A part-time assistant is funded by the Uniform Law Foundation</i>	€	73,100
Conference costs			0
Consultation / promotion			0
Documentation	<i>website: € 4,000 (funded by the Uniform Law Foundation)</i>		0
Total		€	73,100

VI. Membership, institutional cooperation and governance

The governance chapter of the Institute's Work Programme relates essentially to the functioning of the General Assembly, the Governing Council and the Finance Committee and the Secretariat's institutional contacts with member States. These are all on-going activities.

Staffing costs	Secretary-General and Professional staff (Ch. 2. 1, 3.1)	€	176,745
Conference costs	Interpreters / technical services (Ch. 6.5)		10,000
	GC and PC (Ch. 1.1)		50,000
Consultation / promotion	Official journeys (Ch. 1.6)		9,000
	Auditor (Ch. 1.4)		3,500
	Representation (Ch. 6.4)		4,650
Documentation / translation	Postage (Ch. 6.3)		5,000
	Professional staff (Ch. 2. 1, 3.1)		81,465
	General services (Ch. 2. 1, 3.1)		76,950
Total		€	417,310

VII. Administration / Support services / Building management

These activities relate to the day-to-day administration of the Institute, the provision of central support services and the management of the UNIDROIT premises.

Staffing costs	Secretary-General and Professional staff	€ 137,310
	(including part of the salary of the Deputy Secretary-General in charge of the administration) (Ch. 2. 1, 3.1) General services (including treasurer, IT technician, administrative assistants, clerical staff) (Ch. 2. 1, 3.1)	258,770
Conference costs		0
Consultation / promotion	Consultation with OECD (Ch. 1.5)	4,500
Documentation	Postage (Ch. 6.3)	5,000
Miscellaneous	Maintenance costs (electricity, heating, water, insurance of premises, office equipment, upkeep of building, labour costs) (Ch. 7)	120,000
	Compensation for retired members of staff (Ch. 4)	2,500
	Accident insurance (Ch. 3.2)	8,500
	Remuneration of occasional collaborators (Ch. 2.2)	20,000
	Stationery, telephone, fax and Internet (Ch. 6.1, 6.2)	49,000
	Miscellaneous (Ch. 6.6)	6,700
Total		€ 612,280