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Item No. 12 on the Agenda: Financial situation of inactive member States

(prepared by the UNIDROIT Secretariat)

<i>Summary</i>	<i>Background information and the Government of Iraq's request to reactivate its membership in UNIDROIT</i>
<i>Action to be taken</i>	<i>Consider and approve Iraq's request, with a view to Iraq resuming its participation in the Institute as of 2018</i>
<i>Related documents</i>	<i>UNIDROIT 2017 – F.C. (82) 3; UNIDROIT 2017 – F.C. (83) 7; UNIDROIT 2017 – F.C. (83) 9</i>

Background

1. During the period 1940-1963, membership of UNIDROIT entailed no obligation on the part of member States to make any financial contribution to the Institute. Such contributions were made mandatory on 1 January 1964, when the amendment to Article 16 of the Statute, adopted at the 10th session of the General Assembly (Rome, 15 November 1961), entered into force (see Annex 1 hereto).
2. Since then, there have been several instances of member States not formally renouncing their membership, but at the same time not paying their contributions nor participating in the Institute's work. The following are the two most recent instances considered by the Finance Committee and the General Assembly.
3. First, the General Assembly, at its 53rd session (Rome, 25 November 1999), approved a special solution to enable Bolivia to regularise its position by agreeing to make annual contributions – starting in the year 2000 and, according to its UN contribution, classified under Category VIII of the UNIDROIT Contributions Chart in force at that time – and a symbolic payment of one-quarter of its annual contribution into the Working Capital Fund of the Institute, as is customary for new Member States under Article 3(c) of the Rules governing that Fund. In return, the Institute cancelled Bolivia's arrears, which had reached the significant sum of £ 200,000,000. Bolivia paid its

annual contributions for 2000 and 2001, as well as most of the sum due to the Working Capital Fund, but regrettably ceased making its annual contributions thereafter (A.G. (69) 6, paras. 3-11). At this time, Bolivia remains inactive and subject to the sanctions set forth in General Assembly Resolution 58(1) (see Annex 1 hereto).

4. Second, the Government of Paraguay, a country in a situation similar to that of Bolivia prior to the 1999 settlement, requested in 2008 the resumption of its ties with the Institute. To that end, Paraguay proposed a settlement like the one agreed with Bolivia in 1999 and unexpectedly paid a sum roughly equivalent to what its contribution would have been in 2008. In light of the negative experience arising from the prior settlement with Bolivia, the General Assembly ultimately agreed to the Finance Committee's recommendations that Paraguay be requested to pay two years of assessed contributions in exchange for cancellation of its arrears and, going forward, to commit to making its annual contributions for four consecutive years in order to require all its rights (A.G. (69) 6, paras. 12-17; A.G. (69) 11, paras. 24-22), all of which Paraguay ultimately reacquired.

5. The General Assembly approved, at its 65th session (Rome, 2 December 2009), the Finance Committee's recommendations and took note of the steps that the Secretary-General intended to undertake to carry them out (A.G. (65) 10, paras. 35-37). Thereafter, on 27 July 2010, the Secretariat received a payment from Paraguay in an amount roughly equivalent to what the contribution of Paraguay would have been in the years 2009 and 2010, thus completing the minimum payment required by the Finance Committee (not less than two years of outstanding contributions). At its 69th session (Rome, 1 December 2011), the General Assembly took note of the Government of Paraguay's stated intention to abide fully by its financial obligations toward the Institute, with a view to reacquiring its rights as a member of UNIDROIT once it had made its contributions to the UNIDROIT Budget for four consecutive years (see A.G. (69) 11, paras. 32-33), all of which Paraguay ultimately reacquired.

Iraq's request

6. The Republic of Iraq acceded the UNIDROIT Statute on 3 May 1973 and regularly paid its statutory contributions until 1981, at which time it partially paid its contributions before suspending them altogether in 1983. Since that time, as of financial year 2017, Iraq's arrears have accumulated to € 353,611.85.

7. On 13 July 2017, in a letter addressed to the Secretary-General (see Annex 2 hereto), the Ambassador of the Republic of Iraq in Italy reconfirmed the intention of Iraq to reactivate its membership in the Institute. In particular, the Ambassador requested the cancellation of all amounts due to the Institute up through the year 2017 and resumption, from 2018, of payment of contributions under Category VIII of the current UNIDROIT classification chart (€12,650) until the demise of the financial crisis in Iraq.

8. At its 82nd session (Rome, 13 July 2017), then Secretary-General, Mr José Angelo Estrella Faria, apprised the Finance Committee of Iraq's letter, which had been received earlier that morning. As reflected by the report of that session:

In recalling the difficulties faced by Iraq, the Secretary-General then recommended that the Finance Committee consider sympathetically the request by Iraq for the cancellation of its past debt and make a positive recommendation to the General Assembly for it to accept Iraq's proposal as stated in the Note Verbale that had just been received on that date. In support of that recommendation, he pointed out that other member States had benefitted from debt cancellation in the past, noting the examples of Paraguay and Bolivia and that, in

his view, it would not be promising to try to negotiate a deal with Iraq for resuming participation in UNIDROIT's activities against a payment of a certain number of past years' contributions. As the Iraqi contribution had not been contemplated, it had not been missed in the budget. Lastly, Iraq was in a part of the world where UNIDROIT was not very widely represented, and there was a strategic interest for UNIDROIT in expanding its membership in Asia in general and in the Middle East in particular (F.C. (82) 3, para. 59).

The Finance Committee, in turn, invited the Secretariat to prepare a document regarding Iraq's request for consideration at its next session.

9. At its 83rd session (Rome, 21 September 2017), the Finance Committee reviewed the document that had – as requested – been prepared by the Secretariat (UNIDROIT 2017 – F.C. (83) 7). Following its deliberations, the Finance Committee decided to recommend the approval of Iraq's request by the General Assembly at its 76th session (7 December 2017), with a view to Iraq resuming its participation in the Institute as of 2018 (UNIDROIT 2017 – F.C. (83) 9, para. 82).

Action to be taken

10. *In light of the foregoing, the General Assembly is invited to consider and approve Iraq's request, such that – upon payment of its annual contribution for 2018 – Iraq's amounts due to the Institute through the year 2017 would be cancelled and Iraq would recover its full membership and reacquire all of its rights.*

ANNEX 1**RESOLUTION (58) 1**

as passed by the General Assembly of UNIDROIT member States at its 58th session

(Rome, 26 November 2004)

THE GENERAL ASSEMBLY,

MINDFUL of the ever more serious financial difficulties caused to the Institute by the failure over a number of years of certain member States to settle their contributions and of the distortions thereby created in the calculation of the annual receipts of the Institute,

CONSCIOUS of the fact that the measures so far adopted by the General Assembly, in its Resolutions (38) 1, (40) 1, (42) 1, (42) 2, (42) 4, (45) 2 and (47) 1, have failed to provide a satisfactory remedy to the situation created by the existence of longstanding arrears in the settlement by certain member States of their contributions,

CONVINCED that the best means of resolving the problems created by the accumulation of such longstanding arrears, in addition to the sanction provided under Article 16(7) of the Statute, is by progressively suspending the essential privileges of membership in the case of member States having accumulated arrears in the settlement of their contributions the amount of which is in excess of the aggregate of their assessed contributions for the three, four or five immediately preceding years,

HAS DECIDED:

1. *subject to any agreement that may be reached between the Secretariat and member States having accumulated arrears in the settlement of their contributions for the settlement of such arrears by instalments, to suspend the right of member States having accumulated arrears in the settlement of their contributions the amount of which is in excess of the aggregate of their assessed contributions for the three immediately preceding years to present candidates for the awarding of research scholarships and to access the UNIDROIT Library until such time as they have regularised their situation;*

2. *subject to any agreement referred to in clause 1, to suspend the right of member States having accumulated arrears in the settlement of their contributions the amount of which is in excess of the aggregate of their assessed contributions for the four immediately preceding years to receive UNIDROIT documentation until such time as they have regularised their situation;*

3. *subject to any agreement referred to in clause 1, to suspend the right of member States having accumulated arrears in the settlement of their contributions the amount of which is in excess of the aggregate of their assessed contributions for the five immediately preceding years to receive invitations to participate in sessions of the General Assembly and committees of governmental experts convened by, and diplomatic Conferences convened under the auspices of UNIDROIT until such time as they have regularised their situation.*

ANNEX 2

سفارة جمهورية العراق
باليوزن انهى كوه اري عي راق
EMBASSY OF THE REPUBLIC OF IRAQ



العدد: 1201
التاريخ: 2017/7/13

روما
ROME

**His Excellency
Mr. Jose Angelo
The Secretary-General**

Dear Mr. Secretary-General, with reference to our meeting on 25 may, I have the honor to reconfirm the intention of Iraqi government to reactivate its membership in the institute,

and for that purpose the embassy suggests:

1. Cancellation of all amounts relating to Iraq's contributions to the Institute and due until 2017.
2. Iraq undertakes to pay the annual subscription starting in 2018.
3. Because of the financial crisis suffered by Iraq as a result of the decline of oil prices, and the war against terrorism, the embassy requests to keep Iraq in the eighth category, which includes member countries with annual membership of (12, 650) EUR until the demise of financial crisis.

Yours sincerely,

B

The Ambassador

Dr. Ahmed Bamarni



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