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**REPORT**

(prepared by the UNIDROIT Secretariat)

<i>Summary</i>	<i>For the information of the members of the General Assembly</i>
<i>Action to be taken</i>	<i>None</i>
<i>Related documents</i>	<i>None</i>

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**Item No. 1: Opening of the session by the Secretary-General *a.i.* and the Chairman of the General Assembly 2016–2017** (A.G. (76) 1 rev. 2)

1. The 76<sup>th</sup> session of the General Assembly of the International Institute for the Unification of Private Law (UNIDROIT) was held at the seat of UNIDROIT on 7 December 2017. A list of the diplomatic representatives in attendance is included in Appendix I.
2. The *Chairman of the General Assembly 2016-2017, H.E. Mr Antonio de Aguiar Patriota, Ambassador of Brazil in Italy*, welcomed participants and proceeded to open the session. He then invited Professor Anna Veneziano, the Secretary-General *ad interim*, to take the floor.
3. The *Secretary-General a.i.* welcomed participants to the session as well. She recalled that the session would have been attended by the former Secretary-General, Mr José Angelo Estrella Faria, who had had to leave UNIDROIT at the end of July 2017. She thanked all of the representatives for their continued support and trust, recognised the efforts and dedication of UNIDROIT’s staff during the interim period and expressed gratitude to the Chairman of the General Assembly 2016-2017 for having served and supported UNIDROIT’s activities.
4. The *Chairman of the General Assembly 2016-2017* then thanked all the representatives and participants who were present at the session for the confidence that they had placed in his country and in him. He recalled that Brazil had been participating in UNIDROIT since its creation, having been one of two Latin American countries represented at UNIDROIT’s opening session in 1926. Brazil’s participation in UNIDROIT had significantly contributed to the evolution of legal sciences in Brazil, and several studies on private international law were the outcome of discussions held at UNIDROIT. Brazil’s participation at UNIDROIT had also supported discussions on various commercial and private international law issues that were highly relevant to economic and social development.
5. The Chairman then recalled how, upon his appointment at the 75<sup>th</sup> session (Rome, 1 December 2016), he had expressed Brazil’s full support for the United Nations’ 2030 Agenda, including for Sustainable Development Goal 16 with respect to the promotion of peaceful and inclusive societies for sustainable development, providing access to justice for all and building accountable and effective institutions at all levels. UNIDROIT had continued in 2017 to support the achievement of that Goal, as well as other Sustainable Development Goals, through its projects in various areas, such as: (a) those in the area of agricultural development, including the Secretariat’s ongoing promotion of the UNIDROIT-FAO-IFAD Legal Guide on Contract Farming and the preparation, by a UNIDROIT Working Group in collaboration with FAO and IFAD, of an international instrument on agricultural land investment contracts, both of which were supportive of food security and responsible agricultural investment; (b) the continued expansion of the system established by the Cape Town Convention and its related Protocols, including the two sessions of the Committee of Governmental Experts for the preparation of a preliminary draft Protocol on matters specific to Mining, Agricultural and Construction Equipment, which had successfully concluded that the preliminary draft Protocol was sufficiently advanced to recommend to the UNIDROIT Governing Council that a diplomatic Conference be convened to finalise and adopt the Protocol; (c) the adoption of the UNIDROIT Legislative Guide on Intermediated Securities, which promised enhanced legal certainty in this very significant area of economic activity and for which Brazil had served as a Co-Chair of the Committee on Emerging Markets Issues, Follow-up and Implementation together with China; and (d) the ongoing work in the area of cultural property, including promotion of UNIDROIT’s Cultural Property Convention, which established a critical framework for the return of stolen or illegally exported cultural objects and which had attracted four additional accessions in 2017. The Chairman then thanked the members of the General Assembly for their ongoing support for UNIDROIT and acknowledged the efforts of the former Secretary-General, Mr José Angelo Estrella Faria, who successfully led UNIDROIT for roughly nine years and had worked to modernise it, including with respect to the important compensation and social security reforms for UNIDROIT’s staff that were under consideration during the session. He concluded by acknowledging (a) the support that he had received from UNIDROIT’s staff, in particular the Secretary-General *a.i.*, and (b) the presence of

Professor George Galindo, Legal Counselor of the Brazilian Ministry of External Relations, who was in attendance at the session.

**Item No. 2: Election of the Chairman of the General Assembly 2017–2018** (A.G. (76) 1 rev. 2)

6. The Chairman of the General Assembly 2016-2017 noted that the Chairmanship of the General Assembly had traditionally rotated among the four geographic regions of UNIDROIT and that, according to that practice, it was now the turn of the Asia-Pacific group to nominate the new Chair for the period 2017-2018. He then opened the floor for nominations.

7. *Upon nomination by the representative of Japan, the General Assembly, by acclamation, appointed H.E. Ms Esti Andayani, the Ambassador of Indonesia in Italy, as the Chairperson of the General Assembly 2017-2018.*

8. *The Chairperson of the General Assembly 2017-2018 thanked all of the representatives for their support and noted that she was honoured to serve as Chairperson and to lead the discussions on many important aspects of UNIDROIT's work. She also thanked the Government of Japan for the nomination and the former Chairman of the General Assembly for his able leadership and UNIDROIT's achievements during his tenure. The year had been a significant one for UNIDROIT, both substantively and in the area of institutional development, and 2018 was fast approaching. It was a common responsibility to continue the hard work together. Regarding substantive projects, there was important work ahead in the areas of agricultural development, including with respect to: (a) the UNIDROIT-FAO-IFAD Legal Guide on Contract Farming, which was recently promoted at an event in Jakarta; (b) the work on a future instrument on agricultural land investment contracts; and (c) the development of the preliminary draft Protocol to the Cape Town Convention on matters specific to Mining, Agricultural and Construction Equipment. Regarding institutional development, there were significant issues to address, including: (a) the establishment of a new Classification Chart regarding member States' contributions to UNIDROIT; (b) the review of the compensation and social security package offered to UNIDROIT staff, which promised to address important staff management and mobility concerns; and (c) the request of the Government of Iraq to reactivate its membership in UNIDROIT, which could helpfully expand UNIDROIT's reach, its instruments and its expertise within that State and in its region. In concluding, she requested all representatives' support for working through the issues before the General Assembly.*

**Item No. 3: Adoption of the agenda** (A.G. (76) 1 rev. 2)

9. *The General Assembly adopted the agenda as proposed (see Appendix II).*

**Item No. 4: Statement regarding the Organisation's activity in 2017** (A.G. (76) 2 rev.)

10. The *Chairperson* introduced the item and invited the Secretary-General *a.i.* to present the Statement regarding the Organisation's activity in 2017.

11. The *Secretary-General a.i.* presented document A.G. (76) 2 rev., noting that it followed UNIDROIT's practice of providing an overview of the Secretariat's activities and the Work Programme, and she highlighted various activities. First, for UNIDROIT's work on Transactions on Transnational and Connected Capital Markets, the UNIDROIT Governing Council, during its 96<sup>th</sup> session (Rome, 10-12 May 2017), adopted the UNIDROIT Legislative Guide on Intermediated Securities (Legislative Guide) and authorised the Secretariat to promote its dissemination and implementation. The Legislative Guide was the end result of a process overseen by the Committee on Emerging Markets Issues, Follow-Up and Implementation which had been established at the final session of the diplomatic Conference to adopt

a Convention on Substantive Rules regarding Intermediated Securities (Geneva, 5-9 October 2009). The fourth and final meeting of the Committee was held in Beijing on 29-30 March 2017 at the kind invitation of the China Securities Regulatory Commission, who hosted jointly with the China Securities Depository and Clearing Corporation Ltd. The meeting commenced with a Colloquium on Financial Markets Law during which various legal issues arising from securities holding systems were discussed. On the second day, the Committee reviewed the draft Legislative Guide – which had been prepared by the informal group of experts chaired by Professor Hideki Kanda, member of the UNIDROIT Governing Council, with the assistance of the UNIDROIT Secretariat – and recommended that the Legislative Guide be adopted. Since its adoption by the UNIDROIT Governing Council, the Legislative Guide was published, both online and in print, in English and French and would be published in Chinese and Spanish soon. In addition, immediately following the General Assembly's session, a panel would be held to celebrate the launch of the Legislative Guide and to provide an overview on it and related implementation efforts.

12. Second, regarding UNIDROIT's work on secured transactions, the Secretary-General *a.i.* drew attention to the preliminary draft Protocol to the Cape Town Convention on international interests on Mobile Equipment on matters specific to Mining, Agricultural and Construction Equipment (MAC Protocol). The Study Group entrusted with preparing the first draft of the MAC Protocol had met four times from 2014 to 2016 and had developed – in consultation with observers from various international organisations and academic institutions – a preliminary draft text, which was approved for submission to a Committee of Governmental Experts by the UNIDROIT Governing Council at its 95<sup>th</sup> session (Rome, 18-20 May 2016). The Committee of Governmental Experts met twice in 2017, and both sessions were very well attended by representatives of UNIDROIT member States and non-member States, regional and intergovernmental organisations and international non-governmental organisations. The majority of the text proposed by the Study Group was adopted by the Committee at its first session (Rome, 20-24 March 2017), with some debated issues left open, in particular relating to: (a) the scope of the Protocol; (b) the issue of interests arising out of the association of MAC equipment with immovable property; and (c) the amendment procedure for the Protocol. Intensive intersessional work followed, in particular with regard to the registration criteria, and the Secretariat also commissioned – as requested by the Committee – a team of economists to conduct an economic impact analysis on the MAC Protocol. At the second session (Rome, 2-6 October 2017), the Committee of Governmental Experts further refined the draft MAC Protocol, ultimately adopted it and recommended the UNIDROIT Governing Council, at its 97<sup>th</sup> session (Rome, 2-4 May 2018), to authorise the convening of a diplomatic Conference to conclude the MAC Protocol.

13. Third, regarding the other Protocols to the Cape Town Convention, the Secretary-General *a.i.* reported on developments concerning the Luxembourg Rail Protocol, which had been signed in 2017 by France and Sweden, while Gabon became the second Contracting State to the Protocol by acceding to it. Work towards ratification of the Rail Protocol was underway in other States as well. With respect to the Space Protocol, the fifth session of the Preparatory Commission (Rome, 6 December 2017) had been held on the prior day, and that session covered further matters relating to the selection of the Registrar and the appointment of a Supervisory Authority, as well as activities for promoting signature and ratification. The Secretary-General *a.i.* then recognised the representatives of the International Telecommunications Union who were in attendance and pointed out that, following the session, there would be an informational event concerning developments with respect to the space sector and the Space Protocol.

14. Fourth, the Secretary-General *a.i.* discussed three other priority projects for which significant progress had been made. With respect to the preparation of an international guidance document on agricultural land investment contracts, she explained that a Working Group on agricultural land investment contracts – which was chaired by Mr José Antonio Moreno Rodríguez, a member of the UNIDROIT Governing Council – had been constituted and had held two meetings in 2017 (Rome, 3-5 May 2017; 13-15 September 2017), and that the Secretariat had held an informal meeting in Rome on 11 October 2017 during the Committee on World Food Security's 44<sup>th</sup> plenary session in collaboration with the Food and Agriculture Organization (FAO) and the International Fund for Agricultural

Development (IFAD). She then discussed the composition of the Working Group, provided an overview on its work and referred to the Working Group's planned third meeting (Rome, 25-27 April 2018).

15. With respect to the joint ELI/UNIDROIT project for the development of regional rules of European civil procedure based on the ALI/UNIDROIT Principles of Transnational Civil Procedure, she highlighted that the Steering Committee, Co-Reporters and members of the Working Groups had held its third joint meeting (Rome, 5-7 April 2017), at which issues pertaining to the finalisation of the consolidated drafts by the first three Working Groups were discussed, in particular on access to information and evidence, provisional and protective measures, and service of documents and due notice of proceedings. The consolidated draft of the work was presented at the UNIDROIT Governing Council's 96<sup>th</sup> session (Rome, 10-12 May 2017), during which the work received positive feedback. Since then, the second Steering Committee and Co-Reporters meeting was held (Vienna, 16-17 November 2017) at the kind invitation of the European Law Institute (ELI), during which the structure of the rules as well as the progress reports of the other Working Groups were discussed.

16. With respect to the preparation of a guidance document on existing texts in the area of international sales law in co-operation with UNCITRAL and the Hague Conference on Private International Law, the Secretary-General *a.i.* provided background on the project and noted that the three Secretariats had invited five renowned experts in private international law and contract law from different legal traditions and geographic regions to contribute, in a personal capacity, to the preparation of a legal guide. She further noted that the Secretariats had agreed on a tentative outline, which was reviewed by the group of experts via teleconferences, as well as at a coordination meeting (Frankfurt, 25 October 2017) kindly hosted by Professor Stefan Vogenauer.

17. Fifth, the Secretary-General *a.i.* briefly discussed UNIDROIT's lower priority projects, noting advances with respect to the work on Principles of Reinsurance Contract Law and on Private Art Collections. For further detail, she referred to document A.G. (76) 2 rev., which also contained information on the financial implications of the various activities – including with respect to promotional and non-legislative activities – in Annex I and on extra-budgetary contributions and their use in Annex II.

18. The *representative of Italy* thanked UNIDROIT for the challenging and stimulating activities that it carried forward year after year and expressed appreciation for the work of the former Secretary-General, the Secretary-General *a.i.* and UNIDROIT's staff, as well as for the concrete results that they had achieved. He praised, in particular, the recently adopted UNIDROIT Legislative Guide on Intermediated Securities, which was simultaneously highly technical yet able to address, in a simple way, the modernisation of financial markets, including for those States with less developed legal environments. From this effort, it was possible to see how the rule of law could be at the service of innovation and sustainable development. Italy had contributed to the Legislative Guide and hoped that it would be able to continue contributing to projects of such high quality and policy relevance.

19. *The General Assembly took note of the Statement regarding the Organisation's activity in 2017.*

**Item No. 5: Report of the Finance Committee on its 83<sup>rd</sup> session (F.C. (83) 9) and reappointment of the members of the Finance Committee (A.G. (76) 1 rev. 2)**

20. The *Chairperson* noted that this item had two sub-items: (a) the Report of the Finance Committee on its 83<sup>rd</sup> session (Rome, 21 September 2017) and (b) the reappointment of the members of the Finance Committee. With respect to the first sub-item, the Chairperson invited the Chair of the Finance Committee, Mr Benito Jiménez Sauma, a representative of Mexico, to present the Report of the Finance Committee on its 83<sup>rd</sup> session.

21. *The Chair of the Finance Committee* noted that, as one could see from the agenda, the Finance Committee had dealt with many significant items over the past year. Since the General Assembly's 75<sup>th</sup> session (Rome, 1 December 2016), the Finance Committee had met three times, including an additional session in the summer to deliberate further on the reviews of the Classifications Chart and the compensation and social security package offered to UNIDROIT staff.

22. In noting that the level of work was unusual, he thanked the members of the Finance Committee for their hard work and proceeded to describe the Finance Committee's recommendations on the various items. With respect to the final modifications to the Budget and Accounts for the 2016 financial year and the adjustments to the Budget and Accounts for the 2017 financial year, the Finance Committee reviewed those documents and recommended that the General Assembly approve them. For the 2017 financial year in particular, there was a small shortfall in receipts – due to arrears in some member States' contributions – that the Secretariat was aiming to address with a reduction of expenditures for that same year. With respect to extra-budgetary contributions and the status of arrears, the Finance Committee reviewed those documents as well, took note of them and asked that they also be submitted to the General Assembly. With respect to the Classifications Chart, the Finance Committee considered the existing methodology for that Chart, as well as a reformed one, in which new Categories were added to address the gap between Categories I and II and to reduce the burden for States with smaller economies. Ultimately, the Finance Committee recommended that: (a) the current Contributions Chart should remain in place in 2018, so that member States' contributions would remain the same in 2018 as they were in 2017; and (b) the reformed Contributions Chart should be considered for adoption by the General Assembly, make use of the UN scale of assessments for 2019-2021 and come into effect in 2019. With respect to the compensation and social security package offered to UNIDROIT staff, the Finance Committee – following reviews of the various reports received from expert consultants – recommended that (a) UNIDROIT staff be transitioned to the United Nations salary scales as set forth in the report annexed to document F.C. (81) 5, together with a call for preparing job descriptions; (b) the pension scheme be established as set forth in the report annexed to document F.C. (81) 6 rev.; and (c) that health and life insurance be procured, recommending in particular the Allianz "Silver" quotation, which was found in Appendix II to that latter document. With these reforms, which were to be budget neutral and would represent the conclusion of a lengthy review process beginning in 2013, the Finance Committee believed that a more fair, transparent and easy to manage system would be put in place, and that that system would address staff mobility concerns. With respect to the Iraqi Government's request to resume its participation in UNIDROIT subject to cancellation of its arrears and payment of its contributions going forward, the Finance Committee considered similar situations in the past and ultimately recommended that Iraq's request be approved, with a view to Iraq resuming its participation in UNIDROIT as of 2018. Lastly, with respect to the draft Budget for the 2018 financial year, the members of the Finance Committee welcomed that it was, as in previous years, a zero-growth budget. It would remain zero-growth even if the recommended compensation and social security reforms were to be adopted, because any slight changes in costs could be accommodated under the various chapters of that Budget. Following its review, the Finance Committee recommended the adoption of the draft Budget for the 2018 financial year.

23. *The General Assembly took note of the Report of the Finance Committee's 83<sup>rd</sup> session (Rome, 21 September 2017).*

24. *The Chairperson* then invited the Secretary-General *a.i.* to present the background, practices and procedure for the appointment of the members of the Finance Committee.

25. *The Secretary-General a.i.* recalled that the Finance Committee performed a number of important functions, including: (a) reviewing and advising on the preparation of the budget and modifications to it; (b) the assessment of contributions to member States; and (c) determination of the manner in which the Institute's property and assets were handled. The UNIDROIT Regulations did not set forth the composition and method of appointment of the Finance Committee, however the practice of the General Assembly had been to appoint, for three years, a limited number of States –

historically 15 members though there were currently 18 members – so as not to burden the Committee’s functions and to renew current members unless they did not wish to be renewed. The current members – which were appointed by the General Assembly at its 73<sup>rd</sup> session (Rome, 11 December 2014) – had been contacted consistent with past practice to determine whether they would wish to continue serving on the Finance Committee. In response, Austria and Romania had indicated that they did not intend to continue serving but renewed their support for UNIDROIT’s work. There had also been an expression of interest on the part of Indonesia to be more involved in UNIDROIT’s activities, in response to which the Secretariat had proposed that Indonesia might wish to consider serving on the Finance Committee. As Indonesia had accepted that proposal, the Secretariat accordingly proposed that the following States be appointed to the Finance Committee, for three years commencing on 1 January 2018: Brazil, Canada, China, France, Germany, India, Indonesia, Iran, Italy, Japan, Mexico, Republic of Korea, Russian Federation, Spain, Switzerland, the United Kingdom and the United States of America.

26. The *Chairperson* expressed her wish that the General Assembly would accept Indonesia’s proposed membership in the Finance Committee.

27. The *General Assembly* approved the proposed appointments for the Finance Committee for three years commencing 1 January 2018.

**Item No. 6: Final modifications to the Budget and approval of the Accounts for the 2016 financial year (A.G. (76) 3 rev.)**

28. The *Chairperson* introduced the item and invited the Secretary-General *a.i.* to present it.

29. The *Secretary-General a.i.* recalled that, as a matter of procedure, the Finance Committee had twice reviewed the Accounts of Receipts and Expenditure for the 2016 financial year, first at its 81<sup>st</sup> session (Rome, 6 April 2017) and then at its 83<sup>rd</sup> session (Rome, 21 September 2017). To summarise, as set out in paragraph 2 and the chart in paragraph 6 of document A.G. (76) 3 rev., the 2016 financial year was closed with a negative balance of 2.150,31€. This was not because of excess spending by the Secretariat, but was the result of a shortfall in member States’ contributions. This shortfall had been anticipated, and there was no request for supplementary funding for that year. The Secretary-General *a.i.* then noted that the Finance Committee had recommended approval of the Accounts for the 2016 financial year.

30. The *representative of Argentina* pointed out, as a matter of clarification, that Argentina’s required contribution of 20,240.00€, which was reflected in the chart showing contributions of participating governments, had been paid in May 2017. He then requested that that chart be updated.

31. The *Secretary-General a.i.* expressed appreciation for the clarification and noted that it would be taken into account.

32. The *General Assembly* took note of the document and approved the Accounts for the 2016 financial year.

**Item No. 7: Adjustments to the Budget for the 2017 financial year (A.G. (76) 4)**

33. The *Chairperson* introduced the item and invited the Secretary-General *a.i.* to present it.

34. The *Secretary-General a.i.* presented the document, noting that it was always prepared in the autumn. It had the nature of a financial progress report and showed how the Secretariat’s resources were spent during the year by chapter of the Budget. In particular, it reflected the status of

expenditures at the time of its publication and included both disbursements already made by that time and the estimated disbursements to be made through the end of the year. In this way, the estimated disbursements could be calibrated against the expected level of receipts, and such calibration was important because there was an anticipated shortfall of receipts in relation to arrears and delays of member States' contributions amounting to 101.827,00€. Because members States would have until the end of February of the following year to pay their contributions, however, the actual shortfall might be less than that amount. Nevertheless, the Secretariat intended to compensate, as much as possible, for any shortfall in receipts or any unforeseen expenditure in 2017 with a reduction of expenditure under various chapters, though the Secretary-General *a.i.* encouraged member States to make any outstanding contributions in a timely manner.

35. The *representative of the United States of America* thanked the Secretariat for its continued leadership and management of the budget. She then suggested that UNIDROIT could consider following a "PaperSmart" initiative, such as that in place at the United Nations, according to which the Secretariat would provide links to electronic copies of documents instead of paper copies. In requesting consideration of this suggestion, she pointed out that many of her fellow representatives and colleagues already carried laptops and tablets with them and that the initiative could reduce administrative burdens and help to save the environment.

36. The *Chairperson* expressed support for the representative of the United States' suggestion and hoped that other representatives would support it as well.

37. The *Secretary-General a.i.* thanked the representative of the United States of America for the suggestion and indicated that the Secretariat would take it into consideration and try to implement it, taking into account the wishes of the representatives and participants in UNIDROIT's various meetings.

38. The *Chairperson* suggested that the initiative could be implemented on a step-by-step basis.

39. *The General Assembly took note of the adjustments to the budget for the 2017 financial year.*

**Item No. 8: Arrears in contributions of member States (A.G. (76) 5)**

40. The *Chairperson* introduced the item and noted that, though document A.G. (76) 5 was for informational purposes only, it was very important for all member States to make their contributions to UNIDROIT in a timely manner. She then invited the Secretary-General *a.i.* to make a brief report on the situation regarding arrears.

41. The *Secretary-General a.i.* stated that the document reflected arrears in contributions with respect to financial years which had already been closed, specifically for 2016 and years prior. For contributions for 2017, member States would have until the end of February 2018 to make such contributions, because the Accounts for the 2017 financial year would be closed at that time. As shown by the chart, the status of arrears was unfortunately still high, but had improved since early August thanks to recent contributions by member States, to whom the Secretary-General *a.i.* expressed gratitude. Under Article 16 of the UNIDROIT Statute, member States lost the right to vote when they had fallen two years into arrears. While there were three member States on that list which had not surpassed that threshold, the voting rights of the other member States listed were frozen.

42. *The General Assembly took note of the document describing the status of arrears.*

**Item No. 9: Classification of member States in the UNIDROIT Contributions Chart**  
(A.G. (76) 6)

43. The *Chairperson* introduced the next item on the agenda, recalling that – as mentioned in connection with the Report on the Finance Committee’s 83<sup>rd</sup> session – the Finance Committee had recommended reforms to UNIDROIT’s Contributions Chart, by which member States’ contributions were determined. She then pointed out that, for ease of reference, the Contributions Chart’s existing methodology and the recommended revised methodology – which would include a new Category II to address the current gap between existing Categories I and II and a new Category X to break the current range of contributions in existing Category VIII into two – were summarised in the Annex to document A.G. (76) 6. The Chairperson then invited the Secretary-General *a.i.* to present the recommended reforms in greater detail.

44. The *Secretary-General a.i.* recalled that member States’ contributions to UNIDROIT were determined on the basis of the Contributions Chart, which classified member States into different categories based on the UN scale of assessments. In accordance with the periodicity contemplated in Article 16(4) of the UNIDROIT Statute, the Contributions Chart should have been revised again in 2014. However, the General Assembly, at its 73<sup>rd</sup> session (Rome, 11 December 2014), decided that the review of the classification of member States should occur once every six years, deferring the reclassification process to this year. Across three sessions, beginning in the spring, the Finance Committee considered in detail the Contributions Chart’s methodology, ultimately recommending reforms to that methodology to include a new Category II to address the wide gap between existing Categories I and II and a new Category X to break the current range of contributions in existing Category VIII into two in order to reduce the burden on States with smaller economies. These reforms were summarised in the Annex to document A.G. (76) 6 and, as recommended by the Finance Committee, the revised Contributions Chart would only come into force in 2019, and the current Contributions Chart would remain in place in 2018. In addition, the revised Contributions Chart would be on the basis of the UN scale of assessments for 2019-2021, which was to be issued in 2018.

45. The *representative of Argentina* requested clarification regarding the UN scale of assessments for 2019-2021, in particular whether it would be further considered when issued.

46. The *Secretary-General a.i.* replied that the UN scale of assessments for 2019-2021 would serve as the basis for the new Contributions Chart. In addition, she pointed out that there was an estimated change in receipts between the current methodology and the recommended one, however that change was difficult to predict with certainty because the applicable UN scale of assessments would only be issued next year. In any event, in applying the current UN scale of assessments for 2016-2018, the recommended revised Contributions Chart would generate a net increase in receipts of 17,710 euros, whereas the current Contributions Chart would generate a net increase in receipts of 30,360 euros. She emphasised, however, that those figures were just estimates because the new UN scale of assessments would be used.

47. The *representative of Germany* inquired about the addition of the two new Categories, in particular whether it would lead to an increase in the contributions of member States or a diminution in UNIDROIT’s budget and, if so, how such an increase or diminution could be avoided.

48. The *Secretary-General a.i.* replied that she had tried to anticipate this inquiry with her earlier intervention regarding estimations of the net change in receipts arising from the new Contributions Chart. She recalled that it was difficult to make this estimate, but stated that the Secretariat was reassured by applying the UN scale of assessments for 2016-2018 to the new Contributions Chart, which showed an estimated net change that was relatively low. Although a more significant net change with the UN scale of assessments for 2019-2021 was possible, the Secretariat believed that the positive effects of the new Contributions Chart, in particular rendering UNIDROIT more attractive to States with smaller economies, would outweigh any possible diminution in contributions. She concluded by saying

that the new methodology involved minimalist changes and did not seek to overhaul the entire contributions system and that any net change in receipts could be covered through proper administration of the budget.

49. *The General Assembly adopted the revised methodology for the classification of member States in the new Contributions Chart, which would make use of the UN scale of assessments for 2019-2021 and come into effect in 2019.*

**Item No. 10: Review of the compensation and social security package offered to UNIDROIT staff (A.G. (76) 7 rev.)**

50. The *Chairperson* introduced the next item on the agenda and invited the Secretary-General *a.i.* to present the Finance Committee's recommended reforms to the compensation and social security package offered to UNIDROIT staff.

51. The *Secretary-General a.i.* stated that the compensation and social security review had long been discussed, and the shortcomings of the salary scales and pension arrangements were well known. Indeed, the review originated in 2013, was discussed at four informal working group meetings and multiple Finance Committee sessions, and had resulted in six expert reports, which themselves had been costly to commission. In addition, the latest expert consultant reports, in particular those annexed to F.C. (81) 5 and F.C. (81) 6 rev., were twice circulated to member States for review and comments. At its 83<sup>rd</sup> session (Rome, 21 September 2017), the Finance Committee, having reviewed these issues in detail, recommended for adoption by the General Assembly important compensation and pension reforms, which would improve UNIDROIT's sustainability, by both enhancing staff mobility and ensuring that UNIDROIT was an attractive workplace.

52. For the compensation reforms in particular, the Secretary-General *a.i.* stated that, pursuant to the guidance of the informal working group and the Finance Committee, the review had considered various options, including: (a) maintaining UNIDROIT's current compensation structure; (b) placing all staff on the salary scales of the Co-Ordinated Organisations; or (c) placing all staff on the UN salary scales localised for Rome. Under the status quo, professional staff compensation was based on the Co-Ordinated Organisations' scales for initial placement, but then diverted from that based on UNIDROIT practices, and general staff compensation was based on scales issued specifically by UNIDROIT. In addition, UNIDROIT provided to its staff some of the Co-Ordinated Organisations' allowances, but not all of them. Overall, the status quo lacked transparency and coherency, and it posed a considerable administrative burden. With respect to placing all staff on the OECD salary scales for Italy and fully adhering to its system of allowances, that option, while being more transparent and coherent, would be much more expensive than the status quo. The informal working group's guidance, however, was that any changes were to be budget neutral. As a result, pursuant to the informal working group's guidance, the former Secretary-General, in consultation with the compensation consultant, proposed that all staff be transitioned to their respective places on the UN salary scales localised from Rome, while maintaining UNIDROIT's existing system of allowances.

53. In support of this proposal, the Secretary-General *a.i.* emphasised the compensation consultant's observations in his report about the substantial non-financial benefits of the UN approach, which would be more transparent, coherent, accessible and understandable and would offer much better protection for UNIDROIT against potential legal challenges and corresponding liabilities. The consultant's report also noted that the UN approach would influence positively UNIDROIT's attractiveness in the international labour market and that the transition would result at most in a slight increase in costs that could be covered by other chapters within the existing Budget.

54. The Secretary-General *a.i.* then recalled that the Finance Committee had recommended adoption of these compensation reforms at its 83<sup>rd</sup> session (Rome, 21 September 2017). Consistent

with that recommendation, the Secretariat had prepared, in Annex II of document A.G. (76) 7 rev., a revised draft of the UNIDROIT Regulations, which reflected in redline the necessary revisions to adapt those Regulations to these reforms, if adopted. In particular, as identified on the cover page for that Annex, the revisions for the recommended compensation-related reforms were in Articles 39 to 42, 44 to 45, 63, 71, Annex II and Annex III of the Regulations, whereas the revisions for social security-related reforms were in other Articles. She emphasised that the revisions were minimalist adaptations of the Regulations to allow for implementation of the reforms and that the Secretariat would welcome any inquiries about those adaptations.

55. The *representative of Germany* expressed gratitude for the ongoing work on creating a new compensation and social security system and for the efforts made to clarify some of the questions that Germany had previously raised. After reading the replies to those questions, however, there were still some reservations about the reforms, and the previously submitted comments – to which reference was made in paragraph 6 of document A.G. (76) 7 rev. – remained valid. Regarding compensation aspects, Germany's position was unchanged, in particular that the cherry-picking of the UN salary scales – without accepting the entire UN benefits structure, including family allowances – was to be avoided.

56. Regarding social security aspects, the representative of Germany noted that there were also doubts about whether the establishment of the new pension system could really be carried out in a cost-neutral way, and he asked that the following remarks be taken into consideration with respect to the new system. As a general matter, while Germany recognised both the necessity of a new pension system and that a lot of work had already been done, there were some objections to that system. First, that system lacked a realistic return rate because that rate was projected in the report in a very positive way – based in part on interest rates as high as 5.5% earned a long time ago – which were not realistic for the future. The UN pension fund, by comparison, had a more realistic return rate of 3%, which itself might be too optimistic. For these reasons, there needed to be a realistic return rate for at least the next few years. Second, the costs of the actuarial reports, which had to be prepared periodically, were still not estimated in the report and incorporated into the overall cost calculation. These costs, as well as those for UNIDROIT's management of the Italian social security system, still were not figured clearly, and such costs needed to be considered. Third, the base population in the system was not realistic, as some of the figures were based on a larger population than that of UNIDROIT's staff. Fourth, while Germany welcomed the idea of pooling investments together with other smaller international Organisations, more information on such pooling was needed. The representative of Germany concluded by expressing his hope that these points would be taken into consideration.

57. The *representative of the United States of America* expressed support for many of the comments made by the representative of Germany. The United States also had some concerns about the underlying assumptions for the new pension system because the much larger UN pension fund had been struggling to reach its much lower rate of return, so that was an issue to be examined prior to implementation. With respect to the UN salary scales, she recalled that the US position had been that those scales should be applicable only to new, incoming staff, but she acknowledged the administrative burdens in this regard. As a result, the United States requested more information, perhaps at future sessions of the Finance Committee, on how existing staff would be transitioned and how the scales would (a) apply in terms of performance management and (b) be tied to work requirements and not just years of service.

58. The *representative of France* recalled that France had also expressed reservations during the Finance Committee's 83<sup>rd</sup> session (Rome, 21 September 2017) with respect to the envisaged reforms. France was, however, favourable to them, notably with respect to the harmonisation with the UN salary scales and the related gains in transparency. On the other hand, France shared the same wishes which were expressed by the representative of Germany, notably with respect to the new system being budget-neutral, and proposed that the reforms be evaluated, within a short period of time, in order to have a more precise idea of their economic impact.

59. The *Secretary-General a.i.* thanked the representatives for their comments and asked if she could distinguish the two issues of the recommended compensation reforms and the recommended pension reforms, as her introductory remarks had only covered the former. With respect to compensation, she noted the representative of Germany's concern about not applying all of the benefits in the UN system, but pointed out that the object of the reform was to try to find a balance between (a) improving the current situation – which was in disorder – enhancing transparency, reducing administrative burden and making the system sustainable; and (b) maintaining budget neutrality. For this balance, it was decided that UNIDROIT's current system of allowances should be used and that the staff should be transitioned to the UN salary scales. The *Secretary-General a.i.* then noted the points raised by the representative of the United States and stated that the transition would not be used as a means for hidden promotions, that a performance evaluation system was in place and that the consideration and further development of job descriptions was indeed contemplated. With regard to the latter point, she recalled that the former Secretary-General had seen the transition to the UN salary scales as the first step and then the examination, together with the Finance Committee, of the need to have job descriptions as the second step. In this regard, transitioning to the UN approach would allow UNIDROIT to make use of that approach's structure and qualifications, which established basic requirements for various grades and steps and upon which UNIDROIT's job descriptions could be built. At the same time, however, it was important to keep in mind that UNIDROIT, as a small organisation, necessarily required flexibility with respect to the various jobs and responsibilities in order for it to be able to function well. In concluding, she stated that, subject to the Chairperson's views, she would address the pension-related comments after the conclusion of the deliberations with respect to the recommended compensation reforms.

60. The *representative of Mexico* stated that Mexico was ready to support the recommended compensation and pension reforms. Within the Finance Committee, the basis for review of the compensation and social security package was that any reforms be cost-neutral. When the UN family allowances were discussed, it was understood that, if they were to be included, the cost would be much higher. For this reason, it was decided to use the UN salary scales, while maintaining the existing allowances, which was the best approach available and was supported by Mexico.

61. The *representative of Germany* noted that Germany would not object to the recommended compensation reforms, but that it maintained its reservations, including with respect to the lack of acceptance of all of the UN allowances. He expressed support for the representative of France's proposal, in particular that the compensation reforms should be reviewed to ensure that cost neutrality was achieved.

62. The *Secretary-General a.i.* thanked the representatives of France and Germany for the proposal, which would entail review of the transition by the Finance Committee at the earliest opportunity after the new system had been functioning in order to see whether there were any budgetary or other problems. She said that this proposal was a reasonable one and acknowledged that the Finance Committee, in any case, would be responsible for reviewing the budget and thus be able to see whether there were any discrepancies or issues arising from implementation of the compensation reforms. In addition, the *Secretary-General a.i.* requested that, if the compensation reforms were to be adopted, the Secretariat be given some limited flexibility, in particular a period of two to three months in which to implement those reforms, instead of trying to implement them by 1 January 2018 as had been contemplated during the review. She then stated that the Secretariat would welcome the opportunity to report on implementation of the reforms to the Finance Committee.

63. The *representative of Canada* expressed support for the recommended transition of UNIDROIT staff to the UN salary scales. She also supported the request for flexibility in implementation, provided that it was for a short period.

64. *The General Assembly adopted the recommended transition of UNIDROIT staff to the UN salary scales, together with the necessary revisions to the UNIDROIT Regulations and the requested flexibility for implementation, which would be reviewed by the Finance Committee.*

65. Having concluded the deliberations on the compensation reforms, the *Chairperson* invited the *Secretary-General a.i.* to present the recommended social security reforms.

66. The *Secretary-General a.i.* stated that, while some comments had already been made with respect to recommended social security reforms, she would take a step back and provide some general information on these reforms. It was important to emphasise that the status quo with respect to social security also posed significant problems. Indeed, like compensation, the status quo lacked coherency because not all staff members were covered by the same plan, and the various plans had different contribution rates and benefits. In addition, the majority of staff members were currently enrolled in the Italian pension system, which had a relatively high cost, required a minimum of two decades of service to accrue a retirement benefit, and was not easily portable except to a limited number of countries. The combined effect was to severely limit the attractiveness of the benefits package offered by UNIDROIT and to hinder mobility. Accordingly, pursuant to the guidance of the informal working group and the Finance Committee, the review considered a range of options, including various proposals from the International Service for Remunerations and Pensions (ISRP), which served the Co-Ordinated Organisations in this regard, as well as additional private sector proposals. In the context of the review, the possibility of joining the UN pension fund was also explored, though this was in the end not possible because UNIDROIT was not a UN organisation. Of the various options, the most feasible one, based on its expected costs and benefits, was the establishment of a pension plan proposed by ISRP for future staff – and possibly for recently hired existing staff, though not for all staff because it would be too costly to buy out their pension contributions – that was based on the Third Pension Scheme in place at the Council of Europe. Accordingly, ISRP had prepared for UNIDROIT a comprehensive report detailing that recommendation and providing draft pension rules and related documents tailored to UNIDROIT.

67. The *Secretary-General a.i.* noted that this pension plan – as recommended for adoption by the Finance Committee – offered greater portability and benefits than the status quo. Compared to the Italian system, which cost 37% of salary, it was also affordable. In particular, pursuant to the guidance of the Finance Committee, the ISRP estimated the new plan's costs based on two different discount return rates. To address the comment made by the representative of Germany in this regard, under both the ISRP's recommended rate of 3.55% and a more conservative rate of 2.55%, the cumulative actuarial costs would still be less than the 37% of salary that was paid for the Italian system, and thus there was room for the procurement of necessary health, life and disability insurance. With respect to those insurances, the Finance Committee received two quotations from Allianz and Cigna. Having evaluated the coverages and benefits and noted that the intermediate options under each were consistent both with each other and with the UN health insurance plan, the Finance Committee recommended use of Allianz's intermediate option, based on its lower cost. Lastly, with respect to the relevant annexes of document A.G. (76) 7 rev., as requested at the Finance Committee's 83<sup>rd</sup> session (Rome, 21 September 2017), the comments of Germany that were received had been provided to ISRP, and both those comments and ISRP's replies were set forth in Annex I. In addition, there were, in redline in Annex II, the necessary adaptations of the UNIDROIT Regulations for the social security-related reforms, in particular Articles 49 and 52, about which the Secretariat would welcome any inquiries.

68. Having opened the floor for comments or questions by representatives and seeing no requests for the floor, the *Chairperson* then gave the floor to the *Secretary-General a.i.*

69. The *Secretary-General a.i.* stated that, as for compensation, some flexibility in implementation of the new pension system and insurance arrangements was requested. This flexibility was important because, for instance, updated insurance rates would be required based on the implementation date.

She also stated that the Secretariat would of course report to the Finance Committee on implementation of the new system and arrangements.

70. *The General Assembly adopted the recommended pension scheme, as well as the plan for health and related insurances, together with the necessary revisions to the UNIDROIT Regulations and the requested flexibility for implementation, which would be reviewed by the Finance Committee.*

**Item No. 11: Approval of the draft Budget for 2018 and fixing of the contributions of member States for that financial year (A.G. (76) 8)**

71. The *Chairperson* introduced the next item on the agenda and recalled that it was the responsibility of the General Assembly to review and approve the draft Budget on the basis of the recommendation given by the Finance Committee. She then invited the Secretary-General *a.i.* to present the draft Budget.

72. The *Secretary-General a.i.* emphasised that the draft Budget was a zero nominal growth one as requested by member States. She recalled, however, that the former Secretary-General had cautioned that maintaining zero nominal growth would not be something that could go on forever, if UNIDROIT was to be sustainable and successful, though no requests for supplementary contributions were anticipated. She explained that document A.G. (76) 8 set forth the rationale for various expenditures, in particular in the Explanatory Notes, and recalled that, as discussed by the Chair of the Finance Committee in connection with Item No. 5 of the agenda, the draft Budget for 2018 had been given a favourable opinion by that Committee. She then cautioned that, because the compensation and pension reforms had been adopted, the final figures might be different. The reforms, as far as the Secretariat could anticipate, were to be zero nominal growth, as the salary scale transition was estimated to result at most in a 2% increase in expenditure, which could be accommodated by other chapters of the budget, and the pension plan was not contemplated to result in an increase in 2018. The Secretariat, in any event, would report as usual on any budget adjustments to the Finance Committee and then to the General Assembly.

73. *The General Assembly approved the Budget for the 2018 financial year and fixed the contributions of member States for that year along the lines proposed therein.*

**Item No. 12: Financial situation of inactive member States (A.G. (76) 9)**

74. The *Chairperson* introduced the next item on the agenda and recalled that UNIDROIT had received a request from the Ambassador of the Republic of Iraq in Italy to reactivate Iraq's membership in UNIDROIT, in particular seeking cancellation of all amounts due to UNIDROIT up through the year 2017 and resumption, from 2018, of payment of contributions under Category VIII (12,650€) of the current UNIDROIT Classification Chart. She further recalled that, at its 83<sup>rd</sup> session (Rome, 21 September 2017), the Finance Committee had decided to recommend the approval of Iraq's request by the General Assembly at this session, with a view to Iraq resuming its participation in UNIDROIT as of 2018.

75. The *Chairperson* then invited the Secretary-General *a.i.* to present Iraq's request in greater detail.

76. The *Secretary-General a.i.* noted that the Secretariat had received a Note Verbale the prior day and had had an in-person meeting the day before that regarding Iraq's request, by which Iraq had informed the Secretariat that it could not ensure payment of the contribution in 2018 because that amount had not been inserted into the budget expenditures for that year. Iraq thus sought postponement of consideration of its request. Following UNIDROIT's procedure, when Iraq could submit any updated documentation regarding the assurance of payment for the next year, it would be provided

to the Finance Committee for consideration of their request. The Secretary-General *a.i.* expressed appreciation for how the Iraqi representatives had anticipated this budgetary issue and, as requested, she sought postponement of this item.

77. The *representative of Germany* thanked the Secretary-General *a.i.* for the update and proposed that the Secretariat should reply to the Note Verbale and include therein inquiries regarding how the payment of future contributions could be ensured and whether Iraq was disposed to promoting actively UNIDROIT's goals in its region.

78. The *General Assembly* agreed to postpone consideration of Iraq's request and took note of the proposed inquiries to be included in the Secretariat's reply to Iraq's Note Verbale.

### **Item No. 13: Any other business**

79. The *Chairperson* transitioned to the final item on the agenda and asked whether the Secretary-General *a.i.* had any other business that she wished to raise.

80. The *Secretary-General a.i.* noted that a proposal by the Ministry of Industry and Trade of the Czech Republic had been received and that, as requested by that Ministry, paper copies of it had been circulated. That proposal, which related to possible work by UNIDROIT on artificial intelligence, was for informational purposes and would be submitted to the UNIDROIT Governing Council for consideration at its next session, as it was for that Council to consider initially any possible additions to UNIDROIT's Work Programme.

81. The *representative of Mexico* asked the Secretariat to send the proposal by email.

82. The *representative of the United States of America* inquired about the selection process for the next Secretary-General. The understanding was that previous sessions had decided to develop some processes to have more member State input in that process – while respecting transparency as well as the confidentiality of the applicants – and she asked whether there were any updates in this regard.

83. The *Secretary-General a.i.* thanked the representative of the United States for her inquiry and stated that she was not the right organ of UNIDROIT to answer that inquiry because the proceedings for the selection of the next Secretary-General were, preliminarily at least, in the hands of the Permanent Committee and the President of UNIDROIT. She stated that, after that, the Secretary-General was to be appointed by the Governing Council on the nomination of the President. She further stated that this inquiry would be noted in the report.

84. The *representative of Spain* recalled that the selection process for the Secretary-General – as the Secretary-General *a.i.* had already stated – was not within the competence of the General Assembly and stated that this needed to be taken into consideration.

85. The *Secretary-General a.i.* stated that she had understood that the representative of the United States was requesting clarification and noted that all that had been said in this regard would be reflected in the report of the session.

86. The *Chairperson* summarised that the report, as to any other business, should note two additional items: (a) the proposal from the Czech Republic on artificial intelligence, which would be circulated by email and considered at the Governing Council's 97<sup>th</sup> session (Rome, 2-4 May 2018); and (b) the representative of the United States' request for clarification regarding the selection process for the Secretary-General.

87. The *Secretary-General a.i.* recalled that the Secretariat had planned additional activities, which were to begin immediately following the session, including a panel to celebrate the launch of the UNIDROIT Legislative Guide on Intermediated Securities and a panel on space industry developments

and the possible role of the Space Protocol to the Cape Town Convention, to which all representatives were kindly invited to attend.

88. The *Chairperson*, seeing no further requested for the floor, thanked the representatives and the staff of the Secretariat and then closed the session.

**APPENDIX I****LIST OF PARTICIPANTS**76<sup>th</sup> session of the General Assembly**ARGENTINA / ARGENTINE**

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**BELGIUM / BELGIQUE**

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Conseiller  
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**BRAZIL / BRESIL**

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Embassy of Brazil in Italy

Mr George Rodrigo BANDEIRA GALINDO  
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#### **OBSERVER / OBSERVATEUR**

S.M.O.M	Mr Cesare Maria MOSCHETTI Permanent Observer
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	Mr Arnaud GUILLOT Legal Adviser Head Legal Affairs Unit Switzerland

**APPENDIX II****AGENDA**

1. Opening of the session by the Secretary-General *a.i.* and the Chairman of the General Assembly 2016–2017 (A.G. (76) 1 rev. 2)
2. Election of the Chairman of the General Assembly 2017–2018 (A.G. (76) 1 rev. 2)
3. Adoption of the agenda (A.G. (76) 1 rev. 2)
4. Statement regarding the Organisation's activity in 2017 (A.G. (76) 2)
5. Report of the Finance Committee on its 83<sup>rd</sup> session (F.C. (83) 9) and reappointment of the members of the Finance Committee (A.G. (76) 1 rev. 2)
6. Final modifications to the Budget and approval of the Accounts for the 2016 financial year (A.G. (76) 3 rev.)
7. Adjustments to the Budget for the 2017 financial year (A.G. (76) 4)
8. Arrears in contributions of member States (A.G. (76) 5)
9. Classification of member States in the UNIDROIT Contributions Chart (A.G. (76) 6)
10. Review of the compensation and social security package offered to UNIDROIT staff (A.G. (76) 7 rev.)
11. Approval of the draft Budget for 2018 and fixing of the contributions of member States for that financial year (A.G. (76) 8)
12. Financial situation of inactive member States (A.G. (76) 9)
13. Any other business