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<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>

Contents

Item No. 1: Opening of the session by the Secretary-General and the Chair of the General Assembly 2018-2019	2
Item No. 2: Election of the Chair of the General Assembly 2019-2020	3
Item No. 3: Adoption of the agenda (A.G. (78) 1 rev. 2)	4
Item No. 4: Statement regarding the Organisation's activity in 2019 (A.G. (78) 2)	4
Item No. 5: Adoption of the Work Programme of the Organisation for the 2020-2022 triennium (A.G. (78) 3)	7
Item No. 6: Final modifications to the Budget and approval of the Accounts for the 2018 financial year (A.G. (78) 4)	9
Item No. 7: Adjustments to the Budget for the 2019 financial year (A.G. (78) 5)	10
Item No. 8: Arrears in contributions of Member States (A.G. (78) 6 rev.)	11
Item No. 9: Report of the Chairman of the Finance Committee on its 87 th session (F.C. (87) 9) and adoption of Contributions Chart (A.G. (78) 11 rev.)	11
Item No. 10: Approval of the draft Budget for 2020 and fixing of the contributions of Member States for that financial year (A.G. (78) 7)	14
Item No. 11: Appointment of the Members of the Administrative Tribunal (A.G. (78) 8)	15
Item No. 12: Appointment of the Auditor (A.G. (78) 9)	15
Item No. 13: Implementation of the new compensation and social security package offered to UNIDROIT staff (A.G. (78) 10)	16
Item No. 14: Any other business	17
APPENDIX I	18
APPENDIX II	25

Item No. 1: Opening of the session by the Secretary-General and the Chair of the General Assembly 2018-2019

1. The 78th session of the General Assembly of the International Institute for the Unification of Private Law (UNIDROIT) was held at the seat of UNIDROIT on 12 December 2019. A list of participants is included in Appendix I.

2. The *Chair of the General Assembly 2018-2019*, H.E. Mr Paul Dühr, the Ambassador of Luxembourg in Italy, welcomed the participants and proceeded to open the session. He invited the Secretary-General to take the floor to say a word of welcome.

3. The *Secretary-General* thanked the Chair of the General Assembly 2018-2019 and welcomed the participants to the session. He was pleased to report to the General Assembly that UNIDROIT found itself in a very healthy state in terms of the progress of its substantive work, as well as with a strong and improving situation regarding its finances and administrative organisation. In particular, he highlighted the recent successful Diplomatic Conference held in November in Pretoria, South Africa, in cooperation with Department of International Relations and Cooperation (DIRCO) of the Republic of South Africa which saw the adoption of the Fourth Protocol to the Cape Town Convention on Matters Specific to Mining, Agricultural and Construction Equipment (hereinafter MAC Protocol). This achievement represented the finalization of fourteen years of work and the Conference was deemed to be very successful in the opinion of both the delegates and also of the industry representatives present. In total, over 150 delegates, 43 States, one regional integration organisation, three intergovernmental organisations including the World Bank, four international NGOs, and technical advisors were in attendance. Four States have already signed the new treaty on the day of its adoption, being the Republic of Congo, the Republic of Gambia, the Republic of Paraguay and the Federal Republic of Nigeria. And over 20 States have expressed their keen interest in starting the process leading to signature. He expressed heartfelt appreciation to the Republic of South Africa for hosting the Diplomatic Conference and for their excellent collaboration all throughout. Finally, he provided an update regarding the Secretariat staffing, noting the retirement of Senior Legal Officer, Frederique Mestre, and thanking her for over thirty years of loyal services to the Institute. With her departure, funds had been made available to create two new positions and hire Legal Officers Philine Wehling and Priscila Andrade. He also noted the departure of another Legal Officer, Neale Bergman, who had been replaced by the Senior Legal Officer Carlo Di Nicola. The Secretary-General expressed his satisfaction in seeing the arrival of new blood and his great expectations for the drive and energy they will bring to the Institute.

4. The *Chair of the General Assembly 2018-2019* thanked the Secretary-General for his words of welcome and proceeded to note a number of significant achievements and important developments for the Institute over the past year both in terms of progress of substantive work and administrative improvements. He began by expressing heartfelt thanks to the South African authorities for hosting the MAC Protocol Diplomatic Conference in Pretoria and for all of their support and hard work in ensuring such a successful outcome. He further noted that the principles of reinsurance contract law (PRICL) had been finalized and the “black letter rules” had been presented by the working group members to UNIDROIT’s Governing Council in May 2019. He also mentioned the ongoing development of the future Legal Guide on Agricultural Land Investment Contracts (ALIC), the Zero Draft of which had recently seen an extended and broad consultation process through online consultations and a series of three regional consultations. The Chair noted the ongoing efforts to secure the entry into force of the Rail Protocol, also known as the Luxembourg Protocol. He evoked the critical role of investments in transportation infrastructure as well as the relevance to the Sustainable Development Goals and expressed hope that the Protocol would soon be in force, appealing to the gathered representatives to encourage their capitals to see to it that the Rail Protocol was signed and ratified as soon as possible. Finally, he noted the implementation of the previously approved social security reforms and the ongoing efforts to improve UNIDROIT’s regulations and overall administration.

Item No. 2: Election of the Chair of the General Assembly 2019-2020

5. The *Chair of the General Assembly 2018-2019* invited nominations from the General Assembly for the role of Chair of the General Assembly for 2019-2020, noting that the post of Chair of the General Assembly traditionally rotated among the four geographic regions of UNIDROIT and that it is now the turn of the Africa group to nominate the new Chair for the period of 2019-2020.

6. Upon nomination by the representative of South Africa, the General Assembly, by acclamation, appointed *Mr Abubakar Malami, Honourable Attorney – General of the Federation and Minister of Justice, Nigeria, as the Chair of the General Assembly 2019-2020.*

7. The *Chair of the General Assembly 2018-2019* thanked all those who were present for their support and he further expressed his gratitude towards the Secretariat for its support over the past year.

8. The *Secretary-General* expressed heartfelt thanks to the Chair of the General Assembly 2018-2019 and asked for a round of applause as a token of appreciation.

9. The *Chair of the General Assembly 2019-2020* expressed thanks and welcomed all to the 78th session of the General Assembly. He further expressed his gratitude for the confidence expressed towards Nigeria and towards him to serve in the role of chair, and he extended special thanks to South Africa for the nomination and to all the states who expressed support in favour of Nigeria. He called upon representatives to express their appreciation for the outgoing Chair.

10. The *representative of South Africa* voiced appreciation for the excellent work carried out by the outgoing Chair and wished the incoming Chair all the best in his task in the year ahead.

11. The *representative of Australia* echoed the comments made by the representative of South Africa.

12. The *Chair of the General Assembly 2019-2020* extended a warm welcome to the representatives and conveyed the warm greetings of the President of Nigeria, H.E. Muhammadu Buhari. He expressed sincere appreciation to members for their nomination and endorsement of Nigeria as Chair of the 78th session of the General Assembly and noted that he was honoured to serve in this role, especially at this auspicious time which coincides with the adoption of the new Work Programme for the 2020-2022 triennium. He noted that Nigeria had been a member of UNIDROIT since 1964 and that UNIDROIT's activities had become increasingly relevant to Nigeria's economy, which is Africa's largest, and is further projected to be amongst the top 20 in the world by 2050. He noted that with recent advancements in the areas of telecommunications and e-commerce, Nigeria had taken a growing interest in the global legal framework being developed by UNIDROIT.

13. Turning to the expected developments in the coming year, he looked forward to the swift entry into force of the MAC Protocol – recently adopted at the Diplomatic Conference in Pretoria, South Africa – as well as the finalisation of the Legal Guide on Agricultural Land Investment Contracts and its eventual adoption at the Governing Council in May 2020. Hopefully, 2020 would also see the entry into force of the Luxembourg Rail Protocol which required only one more ratification, and could facilitate the cross-border financing of rolling stock thereby generating economic growth and creating further momentum to attract more Contracting States. As for institutional developments, the next year would see the commencement of the implementation of the new Work Programme for the 2020-2022 triennium, which he noted was of great importance for guiding the use of UNIDROIT's resources. As would be discussed further that day, in addition to the full implementation of the compensation and social reforms, the coming year would also see other improvements in UNIDROIT's regulations and overall administrative framework. Nigeria had long taken a strong interest in UNIDROIT's work, especially in view of the high level commercial content of the work of the Institute. He noted that the former Minister

of Justice and Attorney-General of the Federation of Nigeria, Mr Michael Kaase Aondoakaa, had served as a member of UNIDROIT's Governing Council from 2008 – 2013. He also emphasised that Nigeria had signed the MAC Protocol on 22 November 2019, and that the process of ratification had been set in motion. He remarked that UNIDROIT's mission of unification of laws is a great task and he called for all hands to be on deck to tackle issues expeditiously. He looked forward to counting on the cooperation and assistance of the members throughout this session, thanked everyone for their attention and their confidence, and wished everyone a fruitful session.

14. The *representative of Ireland* thanked the Chair and looked forward to a fruitful session.

15. The *representative of the United States of America* congratulated Nigeria on the position of Chair and thanked him for Nigeria's strong signal of support for UNIDROIT.

16. The *representative of Saudi Arabia* congratulated the Chair and assured him of their full support.

17. The *representative of the United Kingdom* extended her warm congratulations to the Chair and assured him of their full support.

18. The *representative of India* congratulated the Chair and assured him of India's full support.

Item No. 3: Adoption of the agenda (A.G. (78) 1 rev. 2)

19. The Chair invited any comments on the revised draft agenda and proposed it for adoption.

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

Item No. 4: Statement regarding the Organisation's activity in 2019 (A.G. (78) 2)

21. The *Chair* introduced the item and invited the Secretary-General to present the statement regarding the Organisation's activities in 2019.

22. The *Secretary-General* presented document A.G. (78) 2, noting that it provided a summary of UNIDROIT's activities over the past year and was divided into three main sections – (a) legislative activities, (b) implementation and promotion of UNIDROIT's instruments, and (c) non-legislative activities.

23. With respect to legislative activities, the Secretary-General noted that the document was organised by areas of work as determined by the Work Programme. In the area of secured transactions, which had received perhaps the most attention in previous years, 2019 had seen the successful adoption of the MAC Protocol to the Cape Town Convention at the recent Diplomatic Conference held in Pretoria on 11-22 November. He emphasised that the successful outcome had been the result of hard work. Indeed, throughout 2019, in the run-up to the Diplomatic Conference, UNIDROIT had organised a series of domestic, regional and international consultation events on the MAC Protocol designed to raise awareness regarding the treaty, discuss the core legal concepts of the MAC Protocol and encourage States to participate in the Diplomatic Conference. To this end, a series of international and regional consultation events had been organised in China, Brazil, Italy, Kenya, and the United Kingdom, as well as in Brussels at the Council of the European Union under the Finnish Presidency. The five multilateral consultation events had brought together over 200 Governmental representatives, private sector stakeholders and legal experts from 81 States. In August, the Secretariat had presented the Cape Town Convention and future MAC Protocol to the Asia Pacific Economic Cooperation (APEC) Economic Committee meeting in Puerto Varas, Chile. Domestic consultations had also taken place in Canada, Chile, China, France, Ireland, South Africa, Spain and the United States of America. The Secretary-General highlighted the fact that in adding the 2019 events to the 11 events held in 2018

(Australia, Hungary, Indonesia, Japan, Mexico, Papua New Guinea, Paraguay, South Africa, Spain, the United Kingdom and the United States of America), a total of 25 consultation events in two years constituted the largest and most comprehensive consultation and promotion effort in UNIDROIT history. While this had occupied a large proportion of the time and workload of the Institute's limited staff, the efforts had been worth it in the end.

24. The Secretary-General further noted that the Secretariat was seeking to capitalise on the momentum generated by the MAC Protocol and that important progress had also been made toward the ratification of the Luxembourg Rail Protocol to the Cape Town Convention. He noted that the Secretariat was aware of seven states which were well advanced in the process of ratification of the Rail Protocol and that the Secretariat, together with the Rail Working Group, was following these developments very closely, with the outcome hopefully being the entry into force in 2020. The Secretary-General elaborated further, noting that the Rail Protocol catered to the needs of the rail industry, which is a green industry, and dovetailed perfectly with a number of important regional development strategies around the world such as the Belt and Road Initiative and infrastructure development initiatives in Africa. The potential impact was huge, especially in areas where private capital was necessary since States could not meet the investment needs on their own. By helping to ease access to private financing of rolling stock, the Rail Protocol could greatly lessen the burden on the state budget and make investment more efficient. In particular, this presented a very important opportunity for Africa, as was explicitly recognised by the United Nations Economic Commission for Africa (UNECA) which had passed a resolution at its 52nd Session mandating UNECA to raise awareness and advocate for knowledge of the Protocol across the African continent. More recently, a conclusive communiqué had been issued by the Ministers and delegates to the Fifth PIDA Week – Programme for Infrastructure and Development for Africa (Cairo 25-29 November 2019) and the organizing and partner institutions, urging African States to ratify the Luxembourg Rail Protocol.

25. In 2019, the Secretariat had continued to advance its work on promoting the Space Protocol and working towards establishing the international framework required to allow the instrument to enter into force. This work had largely been led by the 'Sub-group of the Space Preparatory Commission to Reassess Industry Participation and Development of the Space Protocol', which had held its 4th Meeting on 16 September 2019. This sub-group was comprised of leading international experts from the private sector, academia, and governments, and aimed to assess and establish the case for support for the Protocol by the space industry. The Space Protocol had also been presented by the Secretariat, and contributing experts, at various international and intergovernmental forums around the world, including those held in Abu Dhabi, Amman, Leiden, Noordwijk, Rome, Cologne, Bangkok, and Istanbul.

26. In the area of capital markets, the Secretary-General explained that the focus had been squarely on promotional work in support of UNIDROIT's two instruments in the area, the UNIDROIT Legislative Guide on Intermediated Securities and the Geneva Convention on the same subject. To this end, consultations had been held with relevant experts to prepare a dissemination plan for 2020, especially taking into account the current needs of capital markets, with new factual and legal situations arising in Europe and beyond, as well as with the rapid rise of new technologies in the area.

27. Turning to the area of private law and agricultural development, the Secretary-General was pleased to report that the Working Group on Agricultural Land Investment Contracts had continued to make significant progress in the development of a future Legal Guide on such contracts. Working closely with partners FAO and IFAD, along with a group of experts, the ALIC Zero Draft had been prepared and made available for comments and feedback as part of an online consultation on the UNIDROIT website, as well as featured on a number of other key online platforms in this area, including the Global Forum on Food Security and Nutrition (FSN Forum) hosted by FAO and which has over 8000 participants, and the Land Portal.org and the Afronomics law website. In total more than 50 articulated, useful comments had been received online from professors and researchers from a number of universities such as the University of Groningen, Erasmus University Rotterdam, Southwest University of Political Science and Law – China, the University of Ottawa, University of Aberdeen, Loyola University

Chicago, Durham University, Columbia Center on Sustainable Investment, and Dalhousie University. Recommendations had also been received from FAO, from the Beirut Bar Association, the Embassies of the Argentine Republic and China and from NGOs.

28. In addition to the online consultation, the Secretary-General reported that thanks to the generous provision of a “grant” from IFAD for this express purpose, a series of regional consultation events had also been held around the world in coordination with Working Group experts and in collaboration with IFAD and FAO. The first regional consultation event was aimed at the Asia region and took place in Beijing at the University of International Business and Economics. The second event focused on the Latin America region and was held at the Sao Paulo University. Finally, the third event was focused on the Africa region and was held at the Strathmore University Law School in Nairobi. The Secretary-General noted that the next step would be to review the ALIC Zero Draft with a view to incorporate the various inputs received into the final draft which will be presented for adoption by the UNIDROIT Governing Council at its 99th session in May 2020.

29. In the area of transnational civil procedure, the Secretary-General noted that very significant progress had been achieved in UNIDROIT’s joint project with the European Law Institute (ELI), specifically the development of European civil procedure rules based on the American Law Institute – UNIDROIT Principles of Transnational Civil Procedure. Among various developments, the final Annual meeting with the Co-Reporters of all Working Groups had been held in Rome on 25-26 February 2019, and on 4 September 2019 the consolidated draft of the Rules in English had been presented at the ELI General Assembly. Work on the consolidated draft had continued since then, with a finalised version to be completed for presentation to the ELI Executive Committee in early 2020.

30. The Secretary-General further noted the continuing work conducted on the preparation of a guidance document on existing texts in the area of international sales law in cooperation with UNCITRAL and The Hague Conference on Private International Law, a draft of the Guide had been sent to the UNIDROIT Governing Council members in October 2019 for consultation purposes. The three organisations and the experts would discuss the outcome as well as any additional points at a teleconference to be held in December 2019, with the aim to produce a completed text by early 2020 for circulation in advance of its presentation to the UNIDROIT Governing Council session on 6-8 May 2020 and to the Commission Session of UNCITRAL in July 2020.

31. For UNIDROIT’s implementation work and its non-legislative activities, which were briefly discussed beginning at page 11 of Document 2, the Secretary-General confirmed that the Secretariat had continued to perform its depository functions and to actively promote its instruments, including the UNIDROIT Principles of International Commercial Contracts and the Legal Guide on Contract Farming. Regarding the latter instrument, a new project had been proposed for the creation of a series of domestic legal guides based on the contract farming guide, beginning with one or two Latin American countries, and the Secretary-General was pleased to report that UNIDROIT had won the International Law Institute’s 2019 United Rule of Law Appeal (UROLA) Prize which had provided financial support for the finalization of the project.

32. With regard to the international protection of cultural property, the Secretary-General reported that the past year had been a very positive one for UNIDROIT. Indeed, three new States had become Contracting States to the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects since the last session of the General Assembly, two inter-ministerial working groups had been created to study the 1995 Convention, in Egypt and Lebanon, and UNIDROIT had participated in awareness-raising and capacity building sessions for some thirty countries with a total of about 500 participants (spanning the judiciary, law enforcement agencies, Ministries of Culture, museum professionals, etc.). The Secretary-General further noted that Resolution 73/130 of the United Nations General Assembly expressly acknowledged the launch of the 1995 UNIDROIT Convention Academic Project and the creation of the Informal Ratification Task Force as a platform for the exchange of views, information and

assistance on issues such as the ratification and implementation of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects.

33. The Secretary-General also confirmed that the Secretariat continued to prioritise its non-legislative activities, highlighting efforts to enhance the Library's catalogue as well as an initiative that had started in 2019 to enhance research seminars involving visiting scholars, experts from the region and members of the Secretariat. An update was provided regarding the publication of both the Institute's non-convention instruments and the Uniform Law Review, the quarterly published by Oxford University Press, with a special note concerning the publication of the 4th edition of Sir Roy Goode's Official Commentary on the Cape Town Convention on International Interests in Mobile Equipment and its Aircraft Protocol, which had been selling in record numbers.

34. In summary, the Secretary-General recalled that all of these activities had been undertaken and delivered despite the small size of UNIDROIT's team and the modest size of its budget.

35. The *Chair* thanked the Secretary-General for his presentation and noted that the information provided was an overview of what had been done by the Institute over the previous year. He remarked that the Secretariat had indeed worked extraordinarily hard, especially in the areas relating to the Space and Rail Protocols, international transactions and connected capital markets, private law and development, effective enforcement and many other areas contained in the document. The Chair was pleased to note that the Secretariat's efforts in the area of international protection of cultural property had been recognised and endorsed by the United Nations General Assembly. The Chair opened the floor for questions or comments.

36. The *representative of the Russian Federation* extended his congratulations to the UNIDROIT Secretariat and the Member States on the successful completion of work that had led to the adoption of the MAC Protocol in 2019, and remarked that Members were looking forward to its entry into force along with its successful and fruitful implementation.

37. *The General Assembly took note of the Statement regarding the Organisation's activity in 2019.*

Item No. 5: Adoption of the Work Programme of the Organisation for the 2020-2022 triennium (A.G. (78) 3)

38. The *Chair* invited the Secretary-General to present the draft Work Programme for the 2020-2022 triennium as drawn up by the Governing Council at its 98th session (Rome, 8-10 May 2019).

39. The *Secretary-General* noted that this document was arguably the most important moment because the General Assembly was being asked to approve the recommendations of the Governing Council on what the Secretariat should be doing in the next triennium and this would subsequently be binding. He further explained the background to the preparation of the draft Work Programme, which had consisted of collecting proposals from governments and institutions, preparing the draft proposals and then presenting those to the Governing Council where a debate ensued regarding the hierarchy of priorities amongst the various proposals. Pointing out that further information was available in the document itself, the Secretary-General proposed to provide a brief overview according to the priority levels recommended by the Governing Council.

40. Firstly, he presented the proposal regarding a Model Law on Factoring which came from the World Bank and had been awarded high priority by the Governing Council, meaning that work should commence straight away with the appropriate allocation of required resources. The work would complement and conceptually update the Ottawa Convention on International Factoring (1988) and the UN Convention on the Assignment of Receivables in International Trade (2001); while these two instruments covered the international aspect, the World Bank had identified a pressing need in the existing legal infrastructure for an adequate model law at the domestic level, especially for developing

countries. Making a modern model law on factoring available along the lines expressed would not only help create an international standard but also offer lawmakers across the globe the missing piece needed to complete a set of rules aimed at lowering the cost of credit, enhancing its availability and fostering economic growth. The intention would be to fill this vacuum and finalise the document in two to three years maximum.

41. The second project presented by the Secretary-General concerned work on principles of effective enforcement, which had again been a proposal from the World Bank made on the basis of the serious problems experienced in practice. It had been noted that many countries had good laws on the books in the commercial sphere but that these often fell short at the implementation stage. If enforcement procedures took years, or enforcement was not possible, then the system did not work. Giving the example of international instruments on secured transactions, the Secretary-General remarked that these texts did not address how to obtain effective enforcement because it was a matter of procedural law which was linked to individual countries' differing values and legal traditions. For this reason, a hard law approach would not be appropriate. Rather, the idea would be to provide legislators with a catalogue of what have been identified as best practices on enforcement existing now, while also looking forward and thinking of new solutions beyond the current state of the art. This could be done, for instance, through the incorporation of IT-based solutions in the enforcement process with a view to reducing costs and corruption, etc. It was noted that the project had been assigned medium priority only because the scope remained to be further refined. The Secretary-General expressed enthusiasm for the project which would be led by Deputy Secretary-General Anna Veneziano.

42. The third project presented concerned private law and agricultural development. Once work will have been completed on the future Legal Guide to Agricultural Land Investment Contracts (ALIC) in May 2020, the Governing Council had agreed to assign medium priority to the next project in the area. As a first step, a stocktaking exercise and feasibility study with respect to the legal structure for investment in agriculture activities and contracts, would be undertaken in order to determine whether UNIDROIT could make a useful contribution. The request had come from an on-the-ground assessment of needs from FAO and other organisations working on the field.

43. The fourth project presented concerned a joint project with UNCITRAL on law and technology covering Artificial Intelligence/Smart Contracts/Distributed Ledger Technology. Based on a proposal of the Czech Republic, and having received a similar mandate from their respective governing bodies, UNIDROIT and UNCITRAL had organised a joint workshop at UNIDROIT's seat (Rome, 6-7 May 2019) which had gathered leading experts to identify the most suitable topic(s) for future work by both Organisations. The conclusion of the workshop had been to undertake work in the area of digital assets; in particular, work would be developed towards a global taxonomy in the area, together with an analysis of the nature of digital assets as property rights, and matters concerning applicable law, secured transactions and insolvency. The Governing Council had recommended this be a medium priority, again only in light of the need to finally define the scope. A second workshop had been convened for March 2020, out of which a final scope would be presented for reconsideration at the Governing Council, and, subject to its approval, work could begin in summer 2020.

44. Another project concerned possible work on the harmonisation of national insolvency laws for the liquidation of banks and rules of cooperation and coordination in cross-border cases, on the basis of proposals received from the Bank of Italy and the European Banking Institute (EBI), a Frankfurt-based, pan-European think tank composed of highly-regarded European universities in the fields of banking and financial law. The Governing Council had recommended according medium priority to this project on a tentative basis. The Secretary-General noted that with a view to minimizing use of UNIDROIT's resources, support had been secured from the Bank for International Settlements to finance the work of this project should it be adopted.

45. The Secretary-General noted one last item that was not in the document: an informal request had been made by UNCITRAL for UNIDROIT to collaborate with them in the drafting of a model law on

warehouse receipts. It had been noted that this project would fit very well with the work of UNIDROIT in other areas as it was about access to finance for small and medium enterprises and agricultural enterprises. The intention was to explore the drafting of a model law with UNCITRAL.

46. In summary, the Secretary-General noted this was a very audacious work programme which would see UNIDROIT getting up to full speed, especially now that the Secretariat had the additional human resources to tackle more work. He expressed his hope that the General Assembly would agree and adopt the proposed programme.

47. The *Chair* thanked the Secretary-General for his presentation and opened the floor for questions or comments.

48. The *representative of the United States of America* thanked the Secretary-General for the update and commended the significant and important work of the Organisation, adding that UNIDROIT represented tremendous value for money for its Member States, its partners and for the beneficiaries of the legal instruments resulting from its initiatives. She also thanked the members of the Governing Council and the Secretariat for putting together an ambitious work programme focusing on those projects which would have the greatest impact, including the implementation of the MAC Protocol. She congratulated the entire UNIDROIT staff for its exceptional efforts in this regard, which had resulted in the adoption of the text in Pretoria last month and looked forward to working with UNIDROIT on this and other initiatives in 2020.

49. The *representative of Canada* congratulated the Chair for his appointment and thanked the Secretary-General for highlighting the ambitious and well-rounded work programme. She expressed Canada's support for the priorities as stated, in particular with the emphasis on the promotion of the Rail, MAC and Aircraft Protocols. Regarding the model law on factoring, she noted that Canada was pleased to note the collaborative approach with UNCITRAL.

50. The *representative of the Czech Republic* joined the other delegations in thanking and congratulating UNIDROIT for all the hard work done so far. She was also very pleased to note the inclusion of the law and technology project and expressed the Czech Republic's support for the work programme as presented by the Secretary-General.

51. *The General Assembly approved the Work Programme for the 2020-2022 triennium.*

Item No. 6: Final modifications to the Budget and approval of the Accounts for the 2018 financial year (A.G. (78) 4)

52. The *Chair* noted that the General Assembly was invited to consider the financial documents that had been previously reviewed by the Finance Committee. The Chair invited the Secretary-General to present the document regarding the Final modifications to the Budget and approval of the Accounts for the 2018 financial year.

53. The *Secretary-General* noted that the Finance Committee had twice reviewed the Accounts for the 2018 financial year, first at its 86th session (Rome, 4 April 2019) and then at its 87th session (Rome, 10 October 2019). At the latter, the Finance Committee had recommended that the General Assembly approve the Accounts for the 2018 financial year. He further noted that, as set out in paragraph 2 and the summary chart in paragraph 7, the 2018 financial year was closed with a surplus of roughly 365,900€ (specifically 365,920.54€) resulting from the positive balance of €83,510.15 carried over from the 2017 financial year, plus the positive balance in 2018 of €282,410.39. The cumulative surplus was the result of several factors, including, among others: (i) the settlement of a large amount of arrears on the part of Nigeria in 2018, for which its Government was duly thanked; (ii) savings in different chapters of expenditure, including under Chapter 1, Articles 4, 5 and 6 relating to Committees of Experts, Official journeys of representatives and staff, and Interpreters respectively, as a result of

the fact that most of the Institute's ongoing projects were in their final stages, and hence did not require the convening of committees of experts, or interpreters for such meetings, as well as to the utilisation of videoconferencing and technology to cut down costs; (iii) further, substantial savings had also been made under Chapter 2, Article 1 relating to Salaries, during the period when Professor Anna Veneziano had served as Secretary-General a.i. of the Institute, since the Institute had not had to pay a Secretary-General's salary. Finally, he noted that the Institute had also received a good amount of extra-monetary contributions.

54. The *Chair* opened the floor for any comments.

55. The *representative of Germany* remarked that they agreed with the numbers presented and thanked the Secretariat for their work in 2018.

56. *The Chair concluded that the General Assembly had approved the final modifications to the Budget and Accounts for the 2018 financial year and that the Secretary-General had discharged his responsibility for the management of the 2018 financial year in accordance with Article 38(5) of the Regulations.*

Item No. 7: Adjustments to the Budget for the 2019 financial year (A.G. (78) 5)

57. The *Chair* introduced Item No. 7 and invited the Secretary-General to present the relevant document.

58. The *Secretary-General* noted that the document in question is always presented to the Finance Committee in the autumn and has the nature of a financial progress report with the aim of showing how the Secretariat's resources were being spent during the year by chapter of the Budget. Once approved by the Finance Committee, it is then presented to the General Assembly. The document reflected the status of expenditure at the time of its preparation and publication in November 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. This was important because there was an estimated shortfall in ordinary receipts (referring to the Table of receipts at the top of page 3) of roughly 136,000€ (-136,161.30€ exactly) due to a number of Members States being in arrears with their contributions. Despite the availability of a surplus, the Secretary-General was pleased to report there was no need to resort to art. 38 (4) and make use of the surplus. This was thanks to the policy of austerity pursued by the Secretariat on the one hand, as well as the Secretariat having managed to raise substantial amounts of extrabudgetary contributions, allowing for savings in budget. Thanks to the continuation of this sound financial policy, the Institute had been able to preserve the surplus.

59. The Secretary-General further noted that there had been an increase in the amount of sales of the 4th edition of Sir Roy Goode's Official Commentary on the Cape Town Convention on International Interests in Mobile Equipment and its Aircraft Protocol, and that Sir Roy Goode had very generously donated the royalties towards scholarships for visiting researchers. Accordingly, a Roy Goode Scholarship or Grant for researchers to come to UNIDROIT for longer periods of time would be established.

60. The *Chair* opened the floor for any comments.

61. The *representative of Canada* expressed thanks for the Secretariat having managed to demonstrate both a cautious and proactive approach to the Organisation's finances. She further noted that Canada is a member of the Finance Committee and endorsed the adoption of the document.

62. The *representative of Germany* also expressed thanks to the Secretariat for the excellent financial work done in the last years, and fully agreed with the adoption of the budget.

63. *The Chair concluded that the General Assembly had taken note of the expected level of receipts and expenditure for the 2019 financial year and approved the adjustments to the Budget.*

Item No. 8: Arrears in contributions of Member States (A.G. (78) 6 rev.)

64. The *Chair* introduced Item No. 8 relating to the arrears in contributions of Member States. He noted that it was an informational item, with no decision of the General Assembly required. He then invited the Secretary-General to provide an update to the General Assembly regarding the status of arrears.

65. The *Secretary-General* noted the document reflected arrears in contributions with respect to financial years which had already been closed, specifically for 2018 and years prior. For contributions for 2019, he recalled that Member States had until the end of February 2020 to make such contributions and encouraged them all to do so. He further noted that for 2018, the arrears amounted to €173,861.30, and the total cumulative amount of arrears from 2013 onwards was €362,866.21. The Secretary-General remarked that the Secretariat had taken a very proactive approach in encouraging Member States to fully pay their arrears, while also recognising there were obviously some Member States in arrears for which it would be difficult to regularise their outstanding contributions because of significant social or political problems. He further noted that Belgium's current state of arrears was due to the misapprehension that a double payment had been made in 2016 and that the Belgian Embassy had clarified the situation with the Secretariat, confirming that they expected to pay the amount actually due in 2020.

66. The *Chair* opened the floor for comments.

67. The *representative of Germany* encouraged those Member States in arrears to reduce their arrears and pay their dues, noting that UNIDROIT was doing excellent work but could only continue to do so if the arrears were paid. She further invited UNIDROIT to remind Member States that they have a statutory obligation to pay on time and that not doing so can have consequences. She further made particular reference to those countries involved in the Governing Council.

68. The *representative of the United Kingdom* and the *representative of the United States of America* both expressed full support for Germany's comments.

69. The *Chair* remarked that it is incumbent upon Member States to support the important work being done by UNIDROIT by meeting their obligations in a timely fashion. The Chair concluded that the General Assembly had taken note of the Secretariat's report on arrears.

Item No. 9: Report of the Chairman of the Finance Committee on its 87th session (F.C. (87) 9) and adoption of Contributions Chart (A.G. (78) 11 rev.)

70. The *Chair of the General Assembly* invited the Chair of the Finance Committee, Mr Rafael Osorio, a Representative of Spain, to present the Report of the Finance Committee on its 87th session.

71. The *Chair of the Finance Committee* delivered his report of the 87th session of the Finance Committee. He began by first noting that the Finance Committee had reviewed the accounts for the 2018 financial year, and he highlighted the surplus of €365.920.00 at the end of 2018, as well as the credit balance in the working capital fund €369.227.00 which was the result of several factors, amongst others, the payment of arrears by Nigeria and savings in chapters 1 and 2 of the budget. The Committee had agreed to transmit a positive opinion on this matter to the General Assembly. Second, the

Committee had further reviewed the proposed adjustments to the budget for the financial year 2019 and recommended their approval by the General Assembly. A number of Member States had acknowledged and thanked the Secretariat for their cautious approach in the use of the Institute's financial resources. Third, an update had been provided regarding the extrabudgetary contributions received by UNIDROIT in 2019 in a very comprehensive and transparent manner. The Committee had taken note of this information and thanked for Secretariat. Fourth, the Committee had received an update regarding arrears in contributions from Member States and had asked the Secretary-General to continue to seek payment of contributions in a timely manner. The Committee had also reviewed the Draft Budget for 2020 along with observations by Member States, noting that the proposed budget represented an increase compared to the previous year of €53.130.00, which was attributable solely to the estimated increase in receipts of contributions of Member States under the new contributions chart. The Committee had requested that a positive opinion of the proposed budget for 2020 be transmitted to the General Assembly. He further noted that the Committee had been informed of the transition to the UN salary scales localised for Rome and that the methodology used by the Secretariat to determine these salary scales had been made available to Member States in document F.C. (87) 7. The Committee had also been informed of the successful transition to the new social security package which included four members of staff at the time, as well as the new health insurance policy with AXA instead of Allianz silver as their scheme provided better coverage at a lower cost to the Institute. The Committee had also been informed by Secretary-General that the finalized job descriptions would be ready for the General Assembly's 78th session, which were indeed to be found in Annex 3 of document A.G. (78) 10. Regarding the UNIDROIT regulations, these were being reviewed but would not be submitted to 78th General Assembly. Finally, regarding the classification of Member States in the contributions chart, the Committee had agreed to recommend to the General Assembly to adopt the contributions chart which it had approved at its 86th session in April 2019, with an adjustment for Ireland which had generously agreed to voluntarily maintain their contributions for the year 2020, further noting that Brazil had expressed it was not willing to accept any increase in contribution. The Committee had invited the General Assembly to consider any formal comments submitted by States notifying their inability to pay the contributions as per the chart adopted at the 86th session of the Finance Committee.

72. The *Chair of the General Assembly* thanked the Chair of the Finance Committee for his report and invited the Secretary-General to present the document regarding the adoption of the Contributions Chart.

73. The *Secretary-General* presented an update, noting first that with the arrival of a new Legal Officer in December, there are now six members participating in the social security package instead of four. Second, regarding the adoption of the new contributions chart, he expressed gratitude towards Ireland and Portugal for both waiving their right to a lower contribution (both Ireland and Portugal for the entire 2020-2022 triennium, with the former reserving the right to reassess yearly) and further noted that the Note Verbale sent by the Embassy of Portugal had not been included in the Finance Committee documents due to a clerical error, for which he apologised. Regarding the new contributions chart, he recalled that the General Assembly had decided that the chart of contributions would be updated based on the new UN scale of assessments at its 76th session. However, given that the UN scale of contributions for 2019-2021 was not yet ready at the time, at the 77th session it was decided to postpone the implementation of the new chart to 2020. In the meantime, notifications had been sent to all Member States which were to be affected by the new chart on 24 April 2019 with a request for comments by 15 June 2019. For those States due to decrease their contributions, the Secretariat had invited them to consider remaining at their current level of contribution, with a positive response from Ireland and Portugal. The Secretariat had also received a Note Verbale from Brazil expressing disagreement with the new scale, however, they had not been authorized to circulate this Note Verbale to the Finance Committee. Brazil had subsequently made an oral statement informing the Finance Committee at its 87th session that it was not willing to accept any increase in contributions, noting that this was not only the case for UNIDROIT but for other intergovernmental organisations as well. This

position had been later officially transmitted to the Secretariat stating that for exceptional reasons Brazil would like to remain in the current scale of contributions or otherwise request a suspension of the reclassification. The Note Verbale with the official communication had been shared with the Members of the General Assembly.

74. The *Chair* opened the floor for any comments.

75. The *representative of Argentina* remarked that Argentina has also been reclassified up to category 6, however, due to fact that the country is currently facing serious economic challenges, expressed a preference to keep the previous level of contribution or to suspend the reclassification until the next revision of the chart.

76. The *representative of Brazil* began by congratulating the Chair for his appointment. While noting that Brazil had objected to the reclassification, he nevertheless expressed his appreciation for the room for dialogue with the UNIDROIT Secretariat.

77. The *representative of the United States of America* recalled that the adoption of this new contribution chart was in line with the unanimous vote of the General Assembly at a previous session in favour of alignment with the UN scale of assessment. She further remarked that if there were individual Member States unable to pay, the Secretariat should seek to address each situation on a case-by-case basis and discuss both the nature of their extraordinary circumstances and their financial plan to meet their financial obligations with each country.

78. The *Chair* invited the Secretary-General to discuss the comments made by Argentina and Brazil, while also recalling the consensus decision by the General Assembly referred to by the USA.

79. The *Secretary-General* began by noting that this was not a decision of the Secretariat, but rather a decision of the General Assembly which Member States had adopted by a unanimous vote in a first instance and had unanimously approved on a second occasion. He urged the General Assembly to consider distinguishing between two issues at hand: the first was confirming the new scale of contributions, and the second, which was to subsequently, and as a separate matter, consider exceptions for some countries based on exceptional circumstances. In other words, it was not about excluding two States from the new scale, but rather about considering the suspension of the payment of the additional amounts applicable as a consequence of the reclassification for a certain period of time.

80. The *Chair* invited the General Assembly to adopt the draft Resolution No. 1/2019 at its 78th session together with the revised UNIDROIT Contributions Chart, and to consider any formal comments submitted by Member States in this regard. The *Chair* confirmed that Resolution 1 /2019 (Annex 4) was adopted.

81. The *Secretary-General* remarked that now that the scale had been fixed, the requests of two countries which had asked for suspension of the application of the scale remained for the General Assembly's consideration. He invited those present to consider a provisional solution.

82. The *Chair* opened the floor for proposals.

83. The *representative of the United States of America* referenced the practices of other international organisations in this regard and remarked that the two countries in question should adopt a payment plan with the Secretariat to determine how and when they intended to meet their obligations. She further queried the Secretariat as to whether there were any statutory guidelines in this regard, and whether there was a need for the countries invoking exceptional circumstances to present some kind of documentation in support of their assertions for the consideration of the General Assembly. The *representative of the United Kingdom* expressed support for the USA's intervention.

84. The *Secretary-General* noted that this was a matter for the sovereign decision of the General Assembly, further noting the existence of precedents where countries had been allowed to suspend the payment of additional amounts as a consequence of a reclassification based on an exceptional financial situation. He noted that Brazil was due to go up two steps and would thus pay double, which is a consequence of the growth of the Brazilian economy. He also remarked there would be a need to provide substantial evidence that a country is facing exceptional financial difficulties. In such a case, a potential solution would be for the General Assembly to accept the suspension of the application of the increase for those two countries for this year – as a temporary solution – and that suspension would be subject to reassessment every year on the basis of documentation presented by these countries regarding exceptional circumstances. He queried whether this solution would be acceptable to Brazil and Argentina.

85. The *representative of Brazil* noted that they could accept the suspension until next year. The *representative of Argentina* also accepted the proposed solution, adding his hope that the suspension would not need to be renewed next year.

86. The *representative of Venezuela* also asked for a suspension to apply for Venezuela.

87. The *Secretary-General* noted that the situation of Venezuela was unfortunately different since it had accumulated arrears for a number of years. He further noted that, as stated before, the suspension only concerned the application of the new scale to those selected countries for the upcoming year and not the new scale itself.

88. The *Chair* concluded that the General Assembly had taken note of the Report of the Finance Committee on its 87th session and had adopted the Resolution regarding the new Contributions Chart.

Item No. 10: Approval of the draft Budget for 2020 and fixing of the contributions of Member States for that financial year (A.G. (78) 7)

89. The *Chair* noted that the General Assembly was responsible for approving the draft Budget on the basis of the recommendation given in this regard by the Finance Committee, and invited the Secretary-General to present the relevant document.

90. The *Secretary-General* reminded the General Assembly that the Budget for 2020 had already received a favourable opinion from the Finance Committee at its 87th session. He noted that there was, broadly speaking, a very slight increase in the budget. He further noted that the Secretariat had taken a conservative approach in including receipts from expected sales of publications, remarking that sales should increase hopefully for the 4th edition of the Official Commentary on the Cape Town Convention but that these proceeds were to go to the grant for researchers. He noted a slight increase in the budget line for the auditor, and also that with respect to article 4 and the increased budget for experts, this was in fact a return to normalcy as the previous year was an exceptional situation due to the winding down of the previous Work Programme. Moreover, he mentioned that the implementation of the new Work Programme in light of the potential of the institute's new human resources situation might require an additional increase in the expenditure on experts. Regarding the dissemination and implementation of the MAC Protocol, he remarked that it was crucial to maintain the major momentum from the recent Diplomatic Conference in Pretoria to sell the instrument and get it signed and ratified, thereby explaining the intention to increase the travel budget to take the MAC Protocol to different places, if it was found necessary. On this basis, it was proposed that the General Assembly should allow the use of the surplus for working groups and travel relating to legislative projects should it be required. This would be done under the umbrella of art.38 (4).

91. The *Chair* invited comments and observations on the proposed budget.

92. The *representative of Argentina* queried whether the comment submitted by Mexico was considered in this document, and voiced support for the proposal made by Mexico.

93. *The Chair concluded that the General Assembly had approved the Budget for the 2020 financial year and fixed the contributions of Member States along the lines proposed therein.*

94. The *Secretary-General* noted that, as had been explained during the Finance Committee's 87th session, any increase in budget was not the Secretariat's decision but was a direct result from the decision of all Members of the General Assembly, including Argentina and Mexico, to approve a new scale of contributions. The Secretariat had merely carried out the will of the General Assembly by applying the new scale of contributions, and the resulting increase in receipts needed to be matched by a corresponding increase in expenditure.

Item No. 11: Appointment of the Members of the Administrative Tribunal (A.G. (78) 8)

95. The *Chair* noted that this agenda item requires a decision by the General Assembly and that the UNIDROIT Statute foresees (Art. 7bis (2.)) that the Members of the Administrative Tribunal shall be elected by the General Assembly for a period of five years. He invited the Secretary-General to present the document on the appointment of the Members of the Administrative Tribunal.

96. The *Secretary-General* noted that the Administrative Tribunal – a body which is tasked with managing labour disputes within the organisation – was composed of a very distinguished group of members, being the Honourable Sir Francis Jacobs, Professor Erik Jayme, and Professor Gianluigi Tosato as full members, and alternate Judge Rafael Garcia Valdecasas – and that this composition dated back to the 73rd session of the General Assembly in 2014. He proposed their reappointment by the General Assembly.

97. *The Chair opened the floor for comments. In the absence of any objections or comments, he noted that the General Assembly approved the reappointment as presented.*

Item No. 12: Appointment of the Auditor (A.G. (78) 9)

98. The *Chair* noted that this agenda item required a decision by the General Assembly. He further noted the UNIDROIT Statute foresees that the General Assembly shall appoint an auditor for a period of five years upon nomination of the President of the Institute (Art. 17 (3.)). Given the passing of late President Alberto Mazzoni in May 2019, the Secretariat had published a call for expressions of interest by 15 November 2019, so that the Secretary-General may make a proposal to the General Assembly. The Chair invited the Secretary-General to present the document.

99. The *Secretary-General* noted this is normally a competence of the President of UNIDROIT, but that he had unfortunately passed away in May 2019. The Secretariat had therefore posted an open call for expressions of interest and there had only been one, fortunately by a candidate who met all the requirements. The proposed candidate, Mr. Domenico Antonio Italiano, was a Partner with a leading Tax firm in Rome, and his profile was very similar to that of the auditor currently in office. The Secretary-General remarked that the lack of candidacies was certainly a reflection of the fact that the amount of money allocated for this budget line was very small and not necessarily in line with the amounts of money set aside for the role in other, similarly sized organisations.

100. The *representative of the United States of America* remarked that she would welcome a discussion in the Finance Committee to increase the salary of the auditor so that the Institute does not have difficulty in the future in drawing interest to this position.

101. *The Chair concluded that the General Assembly had approved the appointment of the nominee to the post of Auditor as of 1st January 2020 for a period of five years.*

Item No. 13: Implementation of the new compensation and social security package offered to UNIDROIT staff (A.G. (78) 10)

102. The *Chair* introduced the item and invited the Secretary-General to present the update regarding the implementation of the compensation and social security reforms.

103. The *Secretary-General* presented the document, noting that the members of the Finance Committee had already received an update at its 87th session. He was very pleased to confirm that the transition over to the new system had been completed. The document was divided into three sections. As to the first section, concerned with compensation, he noted that the final implementation had costed less than had initially been anticipated. A question on methodology had been posed by the Government of Germany, which had been addressed in the past two sessions of the Finance Committee. Regarding the pension system, the Secretary-General was also pleased to report that the new system had been fully implemented, and that the Secretariat had managed to negotiate a decrease in the pension fund management fees to a more manageable level than initially anticipated. He further noted that the first report had been made available from the ISRP (International Service for Remunerations and Pensions), which recommended a two-phase approach regarding investment policy: the first period was an interim period which would see the money put into a collections account until the fund accumulated €500,000.00, at which stage the full strategic asset allocation policy would apply to the fund. ISRP has a track record of paying approximately 5% interest, but that would only begin after the interim period in year 2 or 3. Regarding health insurance, it was noted that the Secretariat had signed a better policy for less money with AXA and that, since September 2019, six staff members had moved to the new policy. Regarding job descriptions, given the small size of UNIDROIT as an organisation, the ones attached to the relevant document were broad and flexible, as many of the staff members effectively do more than would be expected for a similar profile in another organisation. The Secretary-General noted that the update of the regulations was still on the agenda, but that the Secretariat's workload over the past months simply had not allowed any time to address them.

104. The *Chair* opened the floor for comments.

105. The *representative of Canada* thanked the Secretariat for the colossal work and the great deals that had been negotiated. With regard to job descriptions, she noted that language skills had been listed, and that as currently drafted, the roles of Secretary-General and Deputy Secretary-General both required French, English, and Italian, despite her understanding that Italian is not an official language. She therefore recommended to remove this requirement from the job description and instead take this into consideration when a specific posting is made for either the role of Secretary-General or Deputy Secretary-General.

106. The *Secretary-General* noted that the official languages of UNIDROIT are 5 (English, French, Spanish, German, and Italian) and that the working languages are English and French. He further noted that the reference to Italian was because many of the Secretariat staff are Italian and also because the relationship with the Italian Government was crucial for the Institute. He agreed that knowledge of Italian could be removed as a requirement if this were the wish of the General Assembly, but that it would nevertheless be necessary for at least a Secretary-General or a Deputy Secretary-General to know Italian.

107. The *Chair* suggested that the languages could be listed as an additional advantage rather than a strict requirement, in order to allow for a larger pool of eligible applicants.

108. The *representative of the United States of America* concurred with Canada's remarks and agreed with the Chair's proposal to remove the languages from the job description, and add them as an added benefit but not a requirement.

109. *The Chair concluded that the General Assembly had taken note of the Secretariat's update regarding the implementation of the compensation and social security reforms and next steps, with the modification regarding the languages being listed as 'added benefit' in the job descriptions for the positions of Secretary-General and Deputy Secretary-General.*

Item No. 14: Any other business

110. The *Chair* transitioned to the final item on the agenda and opened the floor for interventions regarding any other matters.

111. The *Secretary-General* took the floor to publically acknowledge that the work of the UNIDROIT Staff had been exceptional over the past year. In particular, he asked for a round of applause for Senior Legal Officer Will Brydie-Watson in recognition of his outstanding work on the MAC Protocol.

112. *The Chair expressed his appreciation for the hard work, commitment and contributions of the UNIDROIT staff, as well as his appreciation for the confidence placed in him as Chair. He thanked everyone for their participation and contributions. Noting no other items left on the agenda, the Chair declared the session closed.*

APPENDIX I**LIST OF PARTICIPANTS**78th session of the General Assembly

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AUSTRALIA / <i>AUSTRALIE</i>	Ms Rosie STAUDE Second Secretary Embassy of Australia in Italy
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APPENDIX II**ANNOTATED DRAFT AGENDA**

1. Opening of the session by the Secretary-General and the Chair of the General Assembly 2018-2019
2. Election of the Chair of the General Assembly 2019-2020
3. Adoption of the agenda (A.G. (78) 1 rev. 2)
4. Statement regarding the Organisation's activity in 2019 (A.G. (78) 2)
5. Adoption of the Work Programme of the Organisation for the 2020-2022 triennium (A.G.(78) 3)
6. Final modifications to the Budget and approval of the Accounts for the 2018 financial year (A.G. (78) 4)
7. Adjustments to the Budget for the 2019 financial year (A.G. (78) 5)
8. Arrears in contributions of Member States (A.G. (78) 6 rev.)
9. Report of the Chairman of the Finance Committee on its 87th session (F.C. (87) 9) and adoption of Contributions Chart (A.G. (78) 11 rev.)
10. Approval of the draft Budget for 2020 and fixing of the contributions of Member States for that financial year (A.G. (78) 7)
11. Appointment of the Members of the Administrative Tribunal (A.G. (78) 8)
12. Appointment of the Auditor (A.G. (78) 9)
13. Implementation of the new compensation and social security package offered to UNIDROIT staff (A.G. (78) 10)
14. Any other business