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Item No. 17 on the agenda: Any other business

**Private Law and Development: Cooperation with the Global Forum on Law,
Justice and Development (GFLJD) and possible future work in relation with the
"Human-Centered Business Model" Project**

(prepared by the Secretariat)

<i>Summary</i>	<i>Information on the current cooperation with the GFLJD and possible future work in relation with the "Human-Centered Business Model" (HCMB) Project</i>
<i>Action to be taken</i>	<i>The Governing Council is invited to authorise the Secretariat to pursue preliminary research work on the project compatibly with other priority assignments of the Work Programme until funding is secured under the HCMB Project</i>
<i>Mandate</i>	<i>n.a.</i>
<i>Priority level</i>	<i>n.a.</i>

I. UNIDROIT'S PARTICIPATION TO THE GFLJD HUMAN-CENTERED BUSINESS MODEL (HCBM) PROJECT

1. At the 96th session of the Governing Council (10-12 May 2017), the Secretariat informed the Council of ongoing exchanges with the Global Forum on Law Justice and Development (GFLJD) regarding cooperation and possible future work in relation with the "Human-Centered Business Model" Project.¹

2. The Secretariat's memorandum presented the GFLJD's project,² *i.e.* to develop a model of a "Human-Centered Enterprise (HCE)", a "tertium genus" type of organisation "that potentially combines – on an equal level of importance – profit seeking with the wider integrity dimensions of

¹ See: [UNIDROIT 2017 - C.D. \(96\) 14](#) - Item No. 16 on the agenda: Any other business - Private Law and Development: Cooperation with the Legal Forum on Law Justice and Development (LFLJD) and possible future work in relation with the "Human-Centered Business Model" Project.

² see: <http://www.globalforumljd.org/cops/human-centered-business-model>

social and environmental sustainability”, thus providing “an additional way to bridge the gaps in the spectrum of business forms, from profit-maximizing enterprises on one side to not-for-profit organizations or volunteer associations [...]”. The Project seeks “to create a practical and sustainable business model to be available for voluntary adoption by entrepreneurs, in almost any business environment and sector, in developed as well as in developing countries, accompanied by a supportive legal regulatory and policy framework”. The project “takes a holistic approach that addresses the entire context needed for a sustainable and competitive ‘business ecosystem’, including fiscal, financial, legal and regulatory regimes, procurement conditions, and capacity building and mentoring support”.

3. The implementation of the Project is structured around six pillars dealing with the various relevant aspects, each under the co-leadership of two or more partners, with the involvement of other participants. Consultations are underway to seek the interest of one or more global co-leader(s), and the availability of potential donors.

4. As the Secretariat’s memorandum illustrated, UNIDROIT’s potential interest for the HCBM project stems from preliminary work conducted by the Secretariat back in 2010 regarding the legal regimen governing social enterprises. The preliminary study of the UNIDROIT Secretariat³ highlighted the special legal features of these forms of enterprise in relation to the traditional corporate model – not-for-profit organisations and the classic commercial company – and reported on both the growing institutional, conceptual and practical recognition of such enterprises and those national laws having established special legal frameworks for this type of enterprise. The study concluded by suggesting that there was a case for guidelines for a legal framework for social enterprises (or for a certain type of social enterprise) and formulated proposals for the methodology that might be employed in developing such guidelines. However, and notwithstanding the interest expressed by the Governing Council at that time for the project, since the initiator of the proposal - the International Development Law Organization (IDLO) - was not able to secure funding, no further work was engaged by the Secretariat in this area.

5. Consistent with UNIDROIT’s past interest for the topic, the possibility for UNIDROIT to contribute to the HCBM Project acquired a particular relevance in particular as regards Pillar II on “Legal Framework and Governance”. As described in the Project Concept Note, “the objective of this Pillar is to develop a legal and governance framework to enable the HCBM to be used in different socio-economic and legal environments, for a variety of purposes and activities, and for businesses of varying sizes”, and Pillar II’s activities are to: “identify functional legal and regulatory model; develop innovative corporate governance schemes that can ensure the pursuit of goals other than profit; develop compliance and monitoring strategies to control the fulfilment of the legal model within the corporate governance; develop draft provisions to be incorporated in HCEs bylaws”.

6. In this context, the UNIDROIT Secretariat expressed an interest in principle for the Project, and hosted a Conference on 17 February 2017 held under the patronage of the Italian Agency for Cooperation for Development.⁴ In April 2017, the UNIDROIT Secretary General received a letter by Mr Marco Nicoli, Senior Project Manager GFLJD and Senior Knowledge Management Officer of the World Bank Legal Vice-Presidency, which “formally invite[s UNIDROIT] to consider the possibility of taking a co-leading role with the University of Florence for the Pillar 2 on ‘Legal Framework and Governance’”.

7. In view of the information provided by the Secretariat, at its 96th session, the UNIDROIT Governing Council authorised the Secretariat to continue to work with the GFLJD with a view to participating in the development of the project, subject to funding being made available.

³ See [UNIDROIT 2010 – C.D. \(89\) 7 Add. 5](#): Guidelines for a legal framework for social enterprises (or for a certain type of social enterprise)

⁴ The [programme of the Conference](#) as well as the [press review](#) are accessible through the links.

II. DEVELOPMENTS SINCE THE 96TH SESSION OF THE GOVERNING COUNCIL

8. To date, no institution has formally confirmed its decision to act as a global coordinator for the entire project, an essential step to seek funding from potentially interested donors. However, encouraging discussions are underway with an intergovernmental organisation with a global reach, and there seems to be a fair amount of support for the project from various stakeholders.

9. In the meantime, the project continues to be promoted by active members of the GFLJD: as a follow up to the Conference hosted by UNIDROIT in Rome on 17 February 2017, a presentation of the project took place on 14 June 2017 the Faculty of Law of the University of Barcelona with the participation of *TransJus Research Institute*, where UNIDROIT was represented by its President, Prof. Alberto Mazzoni. On 22 November 2017, a meeting was organised in Paris hosted by the Conseil Supérieur du Notariat with the support of the French Ministry for Europe and Foreign Affairs, where UNIDROIT was represented by Prof. Alberto Mazzoni and Ms Frederique Mestre of the Secretariat.

10. Until the HCBM Project is formally launched, the GFLJD partners involved on the various pillars are working on the basis of their personal or institutional interest and availability.

11. As regards UNIDROIT, in accordance with the decision of UNIDROIT Governing Council at its 96th session, over the last months the Secretariat devoted time and preliminary research work compatibly with other assignments in relation with priority topics of the Work Programme. In particular, the Secretariat agreed with its co-leader on Pillar 2, Prof. Andrea Zorzi, University of Florence (assisted by Ms Diletta Lenzi, PhD.) on methodological and substantive guidelines.

12. In the first instance, the preliminary research aims at collecting information regarding essential or critical features of the governance structure for social purpose organizations in entrepreneurial and financing practice, in global or regional policy instruments, or in national legal frameworks. This activity has relied to a large extent on the research carried out by a group of interns and researchers⁵ coordinated by the UNIDROIT Secretariat, who conducted studies on existing forms and current proposals regarding a dedicated legal status for organizations pursuing social objectives in their respective countries or regions, including an analytic study based on a structured Questionnaire and Explanatory Note drafted by the co-leaders. It is envisaged to compile the result of the preliminary research into a Concept Note that may serve as a basis for possible future work on the legal framework and governance schemes for the “Human Centered Business Enterprise”.

III. ACTION TO BE TAKEN

The Governing Council is invited to authorise the Secretariat to pursue preliminary research work on the project compatibly with other priority assignments of the Work Programme until funding is secured under the HCMB Project.

⁵ The interns and researchers involved on the HCBM project were: Mr Pedro Marcon (Brazil), 30 Oct - 26 Jan. (current) Master In International Commercial Law, Università Europea di Roma (jointly with Universidade de Lisboa); Mr Li Jiankun (PRC), 13 Nov - 13 Feb., (current) PhD Candidate of Private International Law, Wuhan University, China; Ms Ashna Taneja (Australia), 11 Dec - 23 Feb., (current) University of Melbourne, Masters of Law (Global Competition and Consumer Law); Ms Tehilla Schwartz (Israel), 22 Jan - 18 March 2018 (current) LL.B. Candidate, The Hebrew University of Jerusalem; Ms Alessandra Pedinotti (Fr, It, Germ), 19 Feb - 11 May (current) Master/Laurea Mag. Univ. Poitiers/Roma 3; Mr David Wouters (Belgium), 1 Feb - 15 April (current) Master 2 KU Leuven/LUISS (Rome); Ms Irais Reyes de la Torre (Mexico), 1 Mar - 30 April, (current) Loyola University Chicago School of Law Master of Laws in Rule of Law for Development (Rome); Mr Murat Cengizlier (Turkey) and Ms Lindsey Callahan (USA) research project as part of Univ. of Washington Master “Global Development Law and Policy”.