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**GOVERNING COUNCIL**  
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**Item No. 3 on the agenda: Reports**

**(b) Report on the activities of the UNIDROIT Foundation**

(prepared by the Secretariat)

<i>Summary</i>	<i>Update of the activities of the UNIDROIT Foundation</i>
<i>Action to be taken</i>	<i>The Governing Council is invited to take note of the activities of the UNIDROIT Foundation and to express support for the proposal to present Prof. Maria Chiara Malaguti for membership of the Foundation's Board of Governors.</i>

**I. BACKGROUND AND GOVERNANCE**

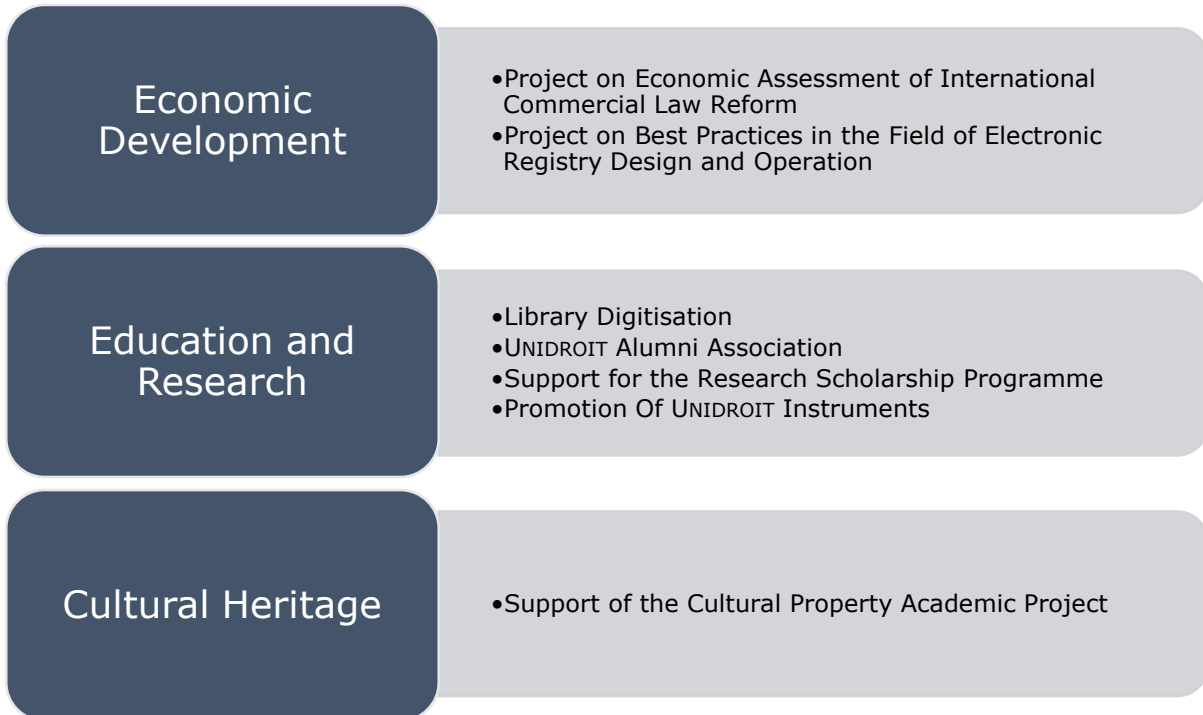
1. Established in 1996, the UNIDROIT Foundation (hereinafter referred to as 'the Foundation') is a Dutch not-for-profit organisation that supports UNIDROIT's mission by (i) promoting UNIDROIT instruments, (ii) facilitating complementary research, (iii) organising seminars and other educational programs, (iv) developing best practice information systems and other reference materials, and (v) fundraising. The Foundation's operations are centred on identifying projects, raising funds, and carrying out activities that are complementary to and supportive of the core work of UNIDROIT. The Foundation's website is available at <https://unidroitfoundation.org/>.

2. The Foundation is overseen by a Board of Governors, who are appointed consistent with the Foundation's Statute (see Annex I for a list of the Board of Governors of the Foundation). The Board of Governors are assisted by members of the Secretariat (Mr William Brydie-Watson and Mr Hamza Hameed) in the execution of their duties, and are advised by two Senior Counsellors.

3. According to the Constitution of the Foundation, "at least one person elected by the Governing Council of UNIDROIT" is to be a member of the Board of Governors. Traditionally, the President of the Governing Council has been a member of the Board, seat which is currently vacant following the passing of our previous President. Given the recent appointment of a new President, the Secretariat proposes that the Governing Council supports the nomination of Professor Maria Chiara Malaguti as a new member of the Board of Governors. If support is received, the Secretariat shall present a formal proposal to the current leadership of the Foundation.

## II. ACTIVITIES

4. The Foundation's activities are divided into three thematic categories: (i) Economic Development; (ii) Education and Research; and (iii) Cultural Heritage. Work within these categories is delivered either through specific projects, or promotional activities. A summary of the Foundation's ongoing activities is as follows:



### *ECONOMIC DEVELOPMENT*

5. The Foundation's work on Economic Development consists of two substantive projects conducted under the auspices of the [Cape Town Convention Academic Project \(CTCAP\)](#), which is a joint partnership between UNIDROIT and the University of Cambridge, with the Aviation Working Group (AWG) as the Founding Sponsor.

#### Best Practices in Electronic Registry Design and Operations

6. The Best Practices in Electronic Registry Design and Operations (hereinafter 'BPER') Project was started in 2015 as a partnership between the Foundation and Harris Manchester College's Commercial Law Centre at Oxford University.

7. The BPER project is the first international initiative which identifies policy and technical best practices in the design and implementation of electronic registries. The project provides guidance to all parties creating, involved in, or using electronic systems, including in the e-business and e-commerce contexts. The project is closely tied to the Aircraft Protocol of the Cape Town Convention and its International Registry of Mobile Assets.

8. Currently, the BPER project is working towards the finalisation of a guide on best practices for the design and operation of electronic collateral registries. The guide is being prepared by Dr Marek Dubovec, Executive Director of the Kozolchyk National Law Center in consultation with the experts involved in the project. Three workshops involving leading experts and academics in the field have been held at Oxford University and the Unidroit Headquarters for this project. The fourth

workshop for the BPER Project will take place at the Unidroit Headquarters and on Zoom on 9 September 2020.

### Economic Assessment of International Commercial Law Reform

9. The Economic Assessment of International Commercial Law Reform project (hereinafter 'EA project') was started in 2015 as a partnership between the Foundation and Harris Manchester College's Commercial Law Centre at Oxford University. It is an inter-disciplinary project with involvement from industry, national governments, international organisations, legal scholars and economists.

10. The project has three objectives:

- a. To research, collect, and assess information relating to the production of economic benefits as a result international commercial law reform (hereinafter ICLR);
- b. To develop guidelines for governmental economic impact and cost-benefit analysis of ICLR;
- c. To produce a framework on the economic assessment of ICLR, which would be a resource for those involved in initiating, working on, or considering becoming a party to an ICLR instrument.

$$\mathbf{EI} = \mathbf{[(A + B + C) \times D] - E}$$

WITH CONFIDENCE LEVEL FROM \_\_ [INSERT 1-5]

Where –

- **EI** is economic impact
- **A** is the net, direct impact of the new rules, rather than those applicable in the absence of reform, applied ex ante or ex post
- **B** is the net, impact of the new rules as a network, that is, the existence of international rules, applied ex ante or ex post
- **C** is the net, systemic, including developmental, impact of the new rules, rather than those applicable in the absence of reform, applied ex ante or ex post
- **D** is the extent, measured from 1 to 0, that the new rules have been or will be effectively applied by courts and authorities
- **E** is the expected (ex ante) or actual (ex post) net cost of creating and transitioning to the new rules. E does not increase over time

\*The analytic framework: -

- does not address the question of how the relevant impacts will be distributed
- does not address the non-quantifiable impacts of retaining or changing existing rules
- would be applied and compared with other law reform options which seek the same objective

11. Under this project, the Foundation collaborated with the MAC Working Group to support the production of an economic assessment of the MAC Protocol. The MAC Working Group provided the funding for the project and the Foundation administered the economic assessment. The [final economic assessment](#) was delivered in August 2018.

12. Five workshops for the project have been held at the University of Oxford and UNIDROIT. Executive summaries for these can be accessed on the [Foundation's website](#). The sixth workshop for the EA Project will take place at the UNIDROIT Headquarters and Zoom on 8 September 2020. The sixth workshop will focus on finalising the methodology involved in applying the variables of the Framework and further develop the Draft Guide to the Framework.

### *EDUCATION AND RESEARCH*

13. The Foundation's work on Education and Research comprises of efforts towards supporting the UNIDROIT Library, UNIDROIT's Internship and Research Scholarship Programme, and Promoting UNIDROIT Instruments. As part of this, the Foundation maintains an initiative to support the UNIDROIT

Governing Council's decision from its 95<sup>th</sup> Session in 2016 to commence in-house digitisation of all copyright free material present in the UNIDROIT Library.

#### Supporting the UNIDROIT Research Scholarship Programme

14. Since its establishment, the Foundation has donated over to €250,000 to UNIDROIT in support of the Research Scholarship and Internship Programmes. This has largely been raised through the royalties received from the Official Commentaries to the Cape Town Convention and its Protocols by Sir Roy Goode, which he graciously donated to the Foundation.

15. In 2020 the Foundation has raised over €20,000 to support the UNIDROIT Research Scholarship and Internship Programme. This support includes a general donation of €10,000 and the provision of funding for four specialised internships:

- a. FELDENSMADRUGA-UNIDROIT Internship: Funded by the Brazilian law firm FELDENSMADRUGA, this internship will provide an opportunity to a Brazilian individual to conduct a three-month funded internship with the UNIDROIT Secretariat in Rome in 2020.
- b. UNIDROIT-UROLA International Commercial Law Internships: Funded by the Uniform Rule of Law Appeal through its CEO, Prof. Don Wallace, Jr, these internships will provide two individuals the opportunity to conduct short paid internships on commercial law issues with the UNIDROIT Secretariat in Rome in 2020-2021.
- c. UNIDROIT Alumni Association Grant: Through membership fees collected by the UNIDROIT Alumni Association (detailed below), one individual from a developing country will be awarded a grant to conduct a funded internship with the UNIDROIT Secretariat in Rome in 2020.

#### UNIDROIT Alumni Association

16. In 2020, the Foundation facilitated the launch of the UNIDROIT Alumni Association. The Association is a platform dedicated to the distinguished guests which have been welcomed to UNIDROIT as part of its research scholarship, internship, and independent research programmes since 1993. The Association provides alumni an opportunity to network on a global scale and keep up to date with UNIDROIT news and events from across the world. It is overseen by UNIDROIT (due to its close association with the scholarship and internship programme) and managed by the Foundation. Mr Hamza Hamed is responsible for managing the Association.

17. Members of the association receive a range of benefits, including quarterly newsletters with updates on the activities of UNIDROIT, notifications about upcoming events and conferences organised by UNIDROIT and its partners in different parts of the world and access to closed groups on Facebook and LinkedIn where they can exchange with other members of the Association as well as members of the UNIDROIT Secretariat. The annual membership fee for the Association is 50 Euros for lawyers, jurists, academics, and others, and 25 Euros for young professionals and students (under the age of 35 on 1 January 2020). Proceeds from the Association go towards supporting the UNIDROIT Internship and Research Scholarship Programme to allow more young professionals and students from developing countries to come to Rome and undertake their legal research.

18. As of 23 July 2020, 130 alumni had formally expressed an interest to join the Association, with 90 alumni having successfully made payments and joined the Association.

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### UNIDROIT COVID-19 Essay Competition

19. As part of its mission to conduct activities which support the promotion of UNIDROIT instruments, and in light of the COVID-19 crisis, the Foundation facilitated an essay competition by inviting interested individuals to submit manuscripts in English between 2000-3000 words (excluding footnotes and references) examining the impact and usefulness of UNIDROIT instruments either during the COVID-19 pandemic, or in the post COVID-19 economy. The essay competition is sponsored by Stibbe.

20. Participants may submit essays to the Foundation until 31 August 2020. The top five essays received shall be rewarded in the following manner:

- 1<sup>st</sup> Position: 2,500 € + Publication opportunities
- 2<sup>nd</sup> Position: 1,500 € + Publication opportunities
- 3<sup>rd</sup> Position: 500 € + Publication opportunities
- 4<sup>th</sup> and 5<sup>th</sup> Position: Publication opportunities

21. These essays will focus on relevant UNIDROIT instruments such as the UNIDROIT Principles on International Commercial Contracts, the Convention on International Interests in Mobile Equipment and its Protocols, the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, the UNIDROIT-FAO-IFAD Legal Guides on Contract Farming, and/or Agricultural Land Investment Contracts, among others. This Competition will promote research and scholarship on UNIDROIT instruments.

### *CULTURAL HERITAGE*

22. The Foundation's Board has also expressed an interest in supporting UNIDROIT's work in the field of the protection of cultural heritage. The Foundation initially developed the website for the Academic Project related to the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects. The website is currently available at <http://1995unidroitcap.org/> and its content is now managed by UNIDROIT.

23. The Foundation intends to expand its support of UNIDROIT in this area in the future.

### **ACTION TO BE TAKEN**

24. *The UNIDROIT Secretariat would invite the Governing Council to take note of the activities of the UNIDROIT Foundation.*

25. *The UNIDROIT Secretariat would invite the Governing Council to express support for the proposal to present Prof. Maria Chiara Malaguti for membership of the Foundation's Board of Governors.*

**Board of Governors of the Foundation:**

- Jeffrey Wool (*President*)
- Don Wallace, Jr. (*Vice-President*)
- Kurt Siehr (*Secretary*)
- Ignacio Tirado (*Treasurer*)
- Alban Caillemer du Ferrage
- Antonio De Palmas
- Louise Gullifer
- Marcello Gioscia
- Arthur Hartkamp
- Carla Sieburgh

**Senior Counsellors to the Foundation:**

- Michael Farley
- Marco Nicoli

**Managers of the Foundation:**

- William Brydie-Watson
- Hamza Hameed