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REPORT

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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>

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Item No. 1: Opening of the session by the Secretary-General and the Chair of the General Assembly 2021-2022

1. The 81st session of the General Assembly of the International Institute for the Unification of Private Law (UNIDROIT) was held in hybrid format on 15 December 2022 in Rome. A list of participants is included in Appendix I.

2. The *Secretary-General* welcomed the participants and proceeded to open the session. He highlighted that this session of the General Assembly was an important one, since the new Work Programme for the 2023-2025 triennium would be presented for approval, as recommended by the Governing Council in June 2022, as well as ordinary matters. Furthermore, he recalled that the coming year would see the election of new, or renewal of existing, Members of the Governing Council by the General Assembly at its 82nd session. He then invited the *Chair of the General Assembly 2021-2022, Minister Plenipotentiary Stefano Zanini, Head of the Service for Legal Affairs, Diplomatic Disputes & International Agreements of the Ministry of Foreign Affairs and International Cooperation (Italy)*, to take the floor.

3. The *Chair of the General Assembly 2021-2022* thanked the Secretary-General and welcomed the participants to the session. He thanked all those in attendance for the support they had provided to him as Chair of the General Assembly during the past year. He noted that 2022 had been a very important year for UNIDROIT, with the accomplishment of many important projects that carried a long-term impact on the activity of the Institute and its membership. Moreover, it saw the preparation of the very ambitious triennial Work Programme for 2023-2025, which would be discussed and approved at that session. The Chair expressed his gratitude towards the entire staff of the Institute for the enormous amount of effort behind the work of UNIDROIT, which demonstrated its outstanding professionalism and preparation. He noted that, during his tenure as Chair, it had been a very intense year also in terms of institutional meetings, with a thorough Governing Council held in June and this General Assembly.

4. Looking back on the achievements of the Institute over the past year, the Chair stated that significant progress had been made with respect to both legislative work and promotion activities. The number and importance of projects and activities demonstrated how much UNIDROIT had gained in visibility and impact on its membership and beyond, and how well the Institute was being administered and directed by its leadership. Regarding legislative work, he began by highlighting the important steps made in the implementation of the Protocols to the Cape Town Convention. The Luxembourg Rail Protocol had recently been signed by South Africa, and the procedure for its ratification was underway. Moreover, the 11th session of the Preparatory Commission of the Protocol had taken place in November 2022 with very positive outcomes, in particular regarding the registrar, which would potentially lead to concrete implementation activities in the year ahead. With regard to the Protocol on Matters Specific to Mining, Agricultural and Construction Equipment (MAC Protocol), he highlighted that last September the European Union (EU) had signed the Protocol, which reaffirmed the global importance of the instrument, and opened the instrument for signature to all EU Member States. The Preparatory Commission for the MAC Protocol had been held that November with important results, including the selection of a registrar, and the Secretariat had also made an important effort in the promotion of the Space Protocol. Next, the Chair turned to the Institute's ongoing high-priority projects. He observed that excellent progress had been made on the Model Law on Factoring and the Model Law on Warehouse Receipts – highlighting that the latter was a joint activity and a very important cooperation UNIDROIT had undertaken with UNCITRAL – as well as the Digital Assets and Private Law Project. It was expected that the instruments that were being developed under those projects would be delivered in the course of 2023. Furthermore, he referred to the other high-priority projects, namely those on Best Practices for Effective Enforcement, the Legal Structure of Agricultural Enterprises Guide, and Bank Insolvency, the latter with a very important potential impact on international financing. Furthermore, the Chair underscored that UNIDROIT, in partnership with the Italian Government, had held the first edition of the International

Summer School in the summer of 2022. Noting that this important initiative was aimed at raising awareness on UNIDROIT's instruments, and that 26 participants from 17 African countries had attended the first edition, he was confident that the second edition would engage an even larger participation.

5. The Chair then addressed the future Work Programme, which had been approved by the Governing Council in June 2022 and was now submitted to the General Assembly for adoption. He noted that the draft Work Programme contained very important and ambitious projects that would have an impact and relevance for the 2023-2025 period. In particular, the Chair highlighted the project on investment contracts, which would strengthen the contractual framework for international investments. He further mentioned the project on the legal nature of Voluntary Carbon Credits (VCC), which aimed at tackling the deficiencies caused by the lack of certainty in VCC trading. Highlighting that VCCs were a cornerstone in the strategy to mitigate greenhouse gas emissions and were based on the Paris Agreement, he stated that the Italian Government attached great importance to the project. Finally, the Chair shared that the administrative preliminary preparation for the important restoration work of the beautiful historical premises of Villa Aldobrandini had been concluded, and that the work was expected to start soon with the renovation of parts of the building. In concluding, the Chair expressed his sincere gratitude to the President, the Secretary-General, the Deputy Secretary-General and all the staff of the Secretariat, as well as to the membership, for their active participation and support during the past year.

Item No. 2: Election of the Chair of the General Assembly 2022-2023

6. The *Chair of the General Assembly 2021-2022* invited Member State delegations to make their nominations for the role of Chair of the General Assembly for 2022-2023, noting that the post of Chair of the General Assembly traditionally rotated among the four geographic regions of UNIDROIT. Accordingly, it was the turn of the Asian region to nominate the new Chair for 2022-2023. He then invited the Secretary-General to take the floor.

7. The *Secretary-General* expressed his gratitude to the Chair for his kind words, as well as to the Government of Italy, not only for the restoration of the beautiful Villa Aldobrandini and the International Summer School, but generally for the ceaseless support provided to the UNIDROIT Secretariat over the past year. He then addressed the election procedure, and confirmed that it was the turn of the Asian region to assume the Chairmanship. In the absence of nominations from the floor, he suggested that India might be nominated as the Chair of the General Assembly for the year 2022-2023.

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

9. A *representative of South Africa* took the floor and supported the nomination of India as Chair for the General Assembly for 2022-2023.

10. A *representative of Japan* seconded the nomination.

11. A *representative of Indonesia* joined in supporting the nomination of India as Chair for 2022-2023. He emphasised the importance of the General Assembly and expressed his gratitude to the Chair of the General Assembly 2021-2022 and to the Italian Government for the leadership during the past year.

12. *The General Assembly, by acclamation, appointed Her Excellency Ambassador Neena Malhotra (India) as the Chair of the General Assembly 2022-2023.*

13. The *Chair of the General Assembly 2022-2023* expressed her profound gratitude for the confidence placed in India by the Member States and accepted the appointment as Chair for the

period 2022-2023 on behalf of India. She expressed gratitude to the Secretariat, as well as to the Governments of South Africa, Japan and Indonesia for supporting India's nomination. Likewise, she expressed her sincere appreciation for the important role of the outgoing Chair of the General Assembly, Minister Plenipotentiary Zanini. She emphasised that India was deeply honoured to represent the Asian region as Chair for the period 2022-2023, noting that this concurred with a special time as India was celebrating the 75th anniversary of their independence and assuming the G20 presidency, as well as celebrating, together with the outgoing Chair Italy, the 75th anniversary of the establishment of their diplomatic relations. She was confident that all this would provide additional opportunities to further strengthen the relationship between India and UNIDROIT. She further emphasised that India had been a Member of UNIDROIT since 1950 and had always supported its work. UNIDROIT's sophisticated and pragmatic set of instruments had helped achieve coherence between different kinds of approaches in traditional laws, and several important and useful instruments drafted by the Institute had been adopted by diplomatic conferences, such as the Cape Town Convention and its Protocols.

14. Looking ahead, the Chair gratefully noted that India would serve as Chair of the General Assembly for an important year in the Institute's work, which would see the finalisation of many impactful projects under the 2020-2022 Work Programme, and the first phase of the new Work Programme for the 2023-2025 triennium. Regarding the Institute's ongoing projects, she highlighted that the year ahead would see further dissemination of the MAC Protocol. Furthermore, she noted that three high priority projects should be finalised in the first half of 2023, all of them initiated under the 2020-2022 Work Programme. These were the Model Law on Factoring, a comprehensive text for the joint UNCITRAL/UNIDROIT Model Law on Warehouse Receipts, and an instrument containing principles and legislative guidance in the area of Digital Assets and Private Law. Moreover, the following year would see the first phase of implementation of the triennial Work Programme for the 2023-2025 period, to be considered by the General Assembly for adoption at the current session. The recommended new Work Programme contained several highly relevant and topical projects, addressing, among other topics, investment contracts, the legal nature of VCCs, Corporate Sustainability Due Diligence in global value chains, and private law and medicine. The Chair concluded her remarks with a pledge to strive towards cooperation for a fruitful and successful General Assembly and opened the floor for comments.

15. The *Secretary-General* thanked her excellency Ambassador Malhotra as well as India for accepting the role of Chair of the General Assembly, stating that the Secretariat was proud and grateful to partner with India in view of the challenges of next year.

Item No. 3: Adoption of the agenda ([A.G. \(81\) 1](#))

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

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

Item No. 4: Statement regarding the Organisation's activity in 2022 ([A.G. \(81\) 2 rev.](#))

18. The *Chair* introduced the item and invited the Secretary-General to present the statement regarding the Organisation's activities in 2022.

19. The *Secretary-General* drew the Assembly's attention to document A.G. (81) 2 rev., which contained the summary of UNIDROIT's activities over the year 2022. He began by stating that the Secretariat, together with the States and experts involved in the projects, had accomplished an extraordinary amount of work in a very difficult situation. As a small organisation, this document was a testament to all that UNIDROIT had been able to achieve in the current year. There were six ongoing legislative projects, which were twice the maximum number of projects UNIDROIT had ever conducted

simultaneously. As the Secretariat was working very efficiently, three of those projects were approaching completion, namely the Model Law on Factoring, the first iteration of the Model Law on Warehouse Receipts, and the guidance document on Digital Assets and Private Law. These three instruments would be finalised by the next session of the Governing Council, with some follow up, complementary work that would continue afterwards. The other three projects had also made very good progress.

20. Concerning legislative activities, the Secretary-General first addressed the work on secured transactions, highlighting that a lot of work had been done in the implementation and completion of several existing instruments. The past year had been particularly challenging for the Aircraft Protocol to the Cape Town Convention, which had 81 Contracting Parties, because of the situation resulting from the war in Ukraine. This situation had put the Cape Town Convention to the test. He recalled that, due to the COVID-19 Pandemic, the Aircraft Protocol had just overcome the most difficult economic crisis the sector had ever experienced. Airplanes had not been able to fly for almost two years, which was obviously problematic in such a capital-intensive, low-margin sector as the aircraft sector. The Cape Town Convention had been instrumental in allowing many of the airlines to survive, protecting the rights of creditors while at the same time preserving value for airlines. It had proven to be an extremely efficient instrument in this situation.

21. Addressing the Luxembourg Rail Protocol, he reported that the Preparatory Commission had held two sessions in 2022. The Secretariat had received a notice from the ownership of the company running the registry of the Protocol stating their intention to exit the business, and consequently transfer the shares of the company. The Secretariat of the Preparatory Commission had therefore convened a first meeting to mandate a negotiating team to identify a successor to the selling shareholder and, following almost a full year of negotiations with potential candidates, the negotiating team had identified a suitable candidate. That candidate had been confirmed in the second session of the Preparatory Commission, which had taken place very recently, and thus the Rail Protocol registry would soon have a new owner. The identified Registrar was deemed an excellent candidate, both technically and financially, and the change of ownership had been effected in a very timely manner in view of the imminent entry into force of the Rail Protocol.

22. The Secretariat had also continued its promotional activities with regard to the Space Protocol. Notably, the Secretariat had strengthened the relationship with the United Nations space-related agencies and was partnering with new important institutions in the sector.

23. Work on the completion of the MAC Protocol had also continued to make progress. The Secretary-General recalled that the work on the Protocol had involved over 15 Working Group meetings, five Preparatory Commissions, dozens of Drafting Committee and intersessional meetings over the past 12 years, involving hundreds of experts from all over the world. This had all taken place at very little cost to the Institute, as demonstrated by the financial accounts. Two Preparatory Commission meetings had taken place during the year: one to finalise the procedure of preparing a request for proposals for the new registry, and another to complete the procedure. Having completed the selection procedure, negotiations would now be initiated with the preferred candidate. Further, in addition to completing a full version of the regulations for the registry, work had also progressed concerning the appointment of a Supervisory Authority. This role had initially been accepted by the International Finance Corporation (IFC) of the World Bank Group. However, following a change of leadership, the IFC was no longer allowed to assume this function under the new strategy. In order to find an alternative, the Secretariat had presented two options to the Governing Council: either to have UNIDROIT act as Supervisory Authority, or provide for the creation of a new organisation for that purpose. The Governing Council had mandated the Secretariat to establish a committee of experts to consider the options, which had already been convened once and would hold its second meeting on the day following the General Assembly. The aim of this committee was to prepare a final proposal to be discussed by the Governing Council in May 2023 at its 102nd session. Finally, the signature by

the European Union of the MAC Protocol had been an important step towards implementation, as had been the signature by the United States of America.

24. Turning to ongoing projects, the Secretary-General first addressed the project on Model Law on Warehouse Receipts, which UNIDROIT had jointly undertaken with the United Nations Commission on International Trade Law (UNCITRAL). He highlighted that the Model Law's aim was to ensure access to credit in the agricultural sector, and would be key to agricultural development. The Working Group had met twice over the past year, and a number of Drafting Committee meetings and special workshops had also taken place. He explained that the project was particularly complex given that warehouse receipts were negotiable instruments, and as such there was a strong divide between countries following the Geneva system and those following the approach adopted in the US Uniform Commercial Code. Both approaches had reached the same solutions, albeit in different ways, and the Model Law had to reach a balanced solution accommodating both approaches in an integrated and efficient manner. This was extremely challenging, especially in such a technical area, yet progress had been extraordinary. The Secretariat would be able to present the Governing Council with a full draft of the Model Law for approval in May 2023 at its 102nd session. The Model Law would then be submitted to UNCITRAL for intergovernmental negotiations, while UNIDROIT would develop a Guide to Enactment, addressed to state legislators, to facilitate implementation at domestic level.

25. Remaining in the area of agriculture and private law, the Secretary-General addressed the project on the Legal Structure of Agricultural Enterprises, which was being carried out in partnership with the Food and Agriculture Organization of the United Nations (FAO) and the International Fund for Agricultural Development (IFAD). He noted that the project was at an earlier stage because of the additional time that had been spent on the definition of its scope. In general terms, the Institute's approach would be to focus on instruments that concern the entire supply chain. This project analysed the transformations in the agricultural food supply chain and the effects of such changes on the choice of legal forms for efficient commercial collaboration among agricultural enterprises, both from a horizontal and a vertical standpoint. He reported that progress had been made and the Secretariat was currently in the process of collecting data, which was a method of the Secretariat to ensure that its best practice instruments were not only exclusively based on the input provided by experts, relying on the assistance provided by FAO and IFAD and their regional offices worldwide.

26. Turning to the area of transnational civil procedure, he noted the extraordinary importance of the project on Best Practices for Effective Enforcement for developing and developed economies alike. The enforcement of judicial decisions, as well as contracts and secured transactions, was a challenge for many countries. Excessive delays in the enforcement of judicial decisions resulted in a loss of much of the value and confidence in judicial systems, and this project had an extraordinary potential to provide guidance at a global level. Two Working Group meetings and, given that use of technology was considered one way in which enforcement could be streamlined and made more efficient, two workshops on technology and enforcement had also been held during the year. It was seen as a potential tool to minimise corruption, and was an important focus of the project accordingly. Joint workshops had also been organised with UNIDROIT's Digital Assets Project to ensure the matter of enforcement of digital assets was adequately addressed. In summary, this project had made very good progress, and it was expected that a final instrument could be presented to the Governing Council in 2024 at its 103rd session.

27. The Model Law on Factoring project had also made very good progress. The Secretary-General explained that the project had initially been labelled the 'Model Law on Factoring, Reverse Factoring, and Supply Chain Financing', and although the title had been shortened to the 'Model Law on Factoring', the scope had remained identical. The fifth session of the Working Group had taken place in May 2022, which had advanced so well that a full draft for the Model Law had been presented to the Governing Council in June. The Council had considered that the draft was ready for a public consultation, involving stakeholders and experts from all over the world. The consultation had been held over three months, from July to October, and had gathered many comments. Another Working

Group meeting had been held to discuss and incorporate those comments, and the final draft Model Law would be presented to the Governing Council and to the General Assembly for approval in 2023 at their respective 102nd and 82nd sessions. The Secretary-General underlined that factoring was key for growth, particularly for micro and small businesses that were usually not able to access credit for want of material assets to provide as collateral. The Model Law on Factoring provided a streamlined, highly efficient system, which allowed entrepreneurs to use receivables to fund their activities, linking financing to their performance. The entrepreneurs could provide receivables as collateral, thereby aligning access to credit with the viability and successful activity of the entrepreneur, which was the future of financing for micro businesses.

28. The Secretary-General reported that excellent work had also been done on the Bank Insolvency project. The project, carried out in partnership with the Basel institutions, had a special focus on small and medium financial institutions, falling outside the realm of the Financial Stability Board's Key Attributes. The Working Group counted on ten experts, but it worked with thirty-seven observers, eight international financial organisations (including the World Bank, the International Monetary Fund and the European Central Bank among others), twenty-three central banks and financial authorities from all over the world, as well as eight deposit insurance organisations. He emphasised that it was probably the first time that the Basel institutions had agreed to work on an instrument outside of Basel which was partly private law and partly of a regulatory nature. During the past year, two Working Group meetings had taken place, one of them hosted by the single Resolution Board of the Banking Union of the European Union in Brussels in October.

29. Turning to the Digital Assets and Private Law project, the Secretary General reported that it had garnered so much interest, with over 70 participants present in the Working Group meetings, that a parallel body had had to be created. The fifth session of the Working Group had been held in March and a sixth in August 2022. A Drafting Committee had been set up, which had met twelve times to advance the work on the principles and commentary. The documents had been presented for comments twice to the Steering Committee, which was an additional body working in parallel which provided sectorial and country analysis of the instrument that the Working Group was producing. These two bodies working together, one providing national views, and the other the international perspective, ensured that the final instrument would be based on comprehensively gathered information. Another Working Group meeting was scheduled to take place the following week, followed by a consultation especially targeted at the industry, to ensure that the instrument that had been developed effectively responded to its needs. The last Working Group meeting would be organised in March, with the aim of presenting the final instrument to the Governing Council at its 102nd session in May 2023.

30. Concerning the implementation and promotion activities of the Institute, the Secretary-General made special reference to the work on cultural property. He reported that UNIDROIT had had the honour and pleasure of actively participating in arguably one of the world's most important meetings in the area of cultural property, Mondiacult, which was convened by the United Nations Educational, Scientific and Cultural Organization (UNESCO) approximately every 20 years. He stated that Mexico had hosted this particular edition with exceptional efficiency, extending his compliments to the Ambassador of Mexico, present in the room, for the event's success and expressing his gratitude to him and his country for having hosted UNIDROIT. He reported that the meeting had been attended by over 120 ministers in person, observing that UNIDROIT was the organisation that had been cited twice in the final declaration.

31. Finally, the Secretary-General addressed the launch of the UNIDROIT Summer School, which had already been highlighted by Minister Zanini in his introductory remarks. He emphasised that rather than it being a mere summer school, it was rather a forum for lawyers, judges and legal officers, which had gathered from the African region for the first edition, to meet and share experiences, and to analyse and study UNIDROIT's instruments as well as transnational law instruments more broadly. While Minister Zanini had already mentioned the attendance of young

participants, he added that several attendants had been rather senior, including a Supreme Court judge from South Africa. He highlighted that the Ambassador of South Africa, acknowledging her presence at the General Assembly, had been instrumental in the impact and success of the Summer School, expressing the hope that there would be a second edition, again focussing on Africa, the following year. He added that, ultimately, the participation should rotate among different regions of the world.

32. Concluding, the Secretary-General addressed the Institute's performance indicators in terms of social media. He reported that by November 2022 UNIDROIT had gained over 24,000 followers on LinkedIn, over 5,300 followers on Facebook, almost 2,000 followers on Twitter, and well over 400 subscribers on YouTube. In 2022, posts made by UNIDROIT on all of its channels collectively had been delivered to people's feeds over 1 million times. This was an extraordinary result for an organisation that did not have professionals in charge of social media outreach.

33. The *Chair* thanked the Secretary-General for the comprehensive report and opened the floor for comments.

34. The *Ambassador of South Africa* congratulated the Chair on her election as chairperson of the 81st General Assembly and assured her of South Africa's cooperation. She gratefully acknowledged the commitment and dedication of Professors Malaguti and Tirado, as well as all the staff members, in advancing the objectives and work of UNIDROIT. She recalled that South Africa had a long history in supporting UNIDROIT, and had celebrated its 50th anniversary of membership in 2021. South Africa was also privileged to have been closely involved in the adoption of the Cape Town Convention and the Pretoria Protocol. South Africa had signed the Luxembourg Protocol on 22 March 2022 and the process for ratification was underway, to be completed early the following summer. She noted with appreciation that the activities of UNIDROIT in 2022, as well as the indicative Work Programme for the period 2023-2025, had prioritised the implementation and promotion of UNIDROIT's instruments. Affirming South Africa's readiness to cooperate with the Institute to increase the adherence to relevant UNIDROIT instruments in Africa, she highlighted their potential benefits in achieving the objectives of Africa's Agenda 2063 in promoting the continent's inclusive and sustainable development. She also acknowledged that UNIDROIT had been successful in organising the International Summer School and that they looked forward to the continuation of this programme, considering it an indispensable knowledge sharing platform. Lastly, she also acknowledged that UNIDROIT's resources were limited, and that it was important for all Member States to pay their contributions, recalling the general increase in costs associated with the rising inflation and following the COVID-19 Pandemic. In this context, South Africa supported the draft Budget for 2023, and commended the efforts of the Institute to keep the budget within the nominal real growth for the contributions. The innovative manner in which UNIDROIT increased its resources was also valued and, in concluding, she affirmed South Africa's readiness to strengthen its cooperation with UNIDROIT.

35. A *representative of Japan* thanked the Secretary-General for the detailed overview of UNIDROIT's activities during 2022. He observed that excellent achievements had been made during the past year in spite of the very difficult times. He reported that an outstanding Japanese professor was actively involved in several projects, including the MAC Protocol, the project on Digital Assets and Private Law, the Model Law on Warehouse Receipts project, and the Model Law on Factoring project. Moreover, Japanese financial institutions and insurance agencies were participating as observers in the Bank Insolvency project. On behalf of Japan, he expressed heartfelt gratitude for and satisfaction with the work conducted and supported by the Secretariat.

36. A *representative of Spain* expressed his recognition to Italy as Chair during the past year and his best wishes to India as Chair of the General Assembly for the 2022-2023 period. He highlighted that, despite being one of the oldest international organisations, UNIDROIT's work was closely attuned to the needs of the present time. He expressed his appreciation for the work carried out over the past year and applauded the high efficiency displayed by the organisation, which allowed it to carry

out a great number of projects and activities. Observing that UNIDROIT had worked intensively on the ratification of the Luxemburg Rail Protocol, he expressed special gratitude to the Ambassadors of Luxembourg and South Africa for their tireless work on its promotion. He emphasised the great relevance of the Protocol, which applied the Cape Town Convention to railway rolling stock with the objective of promoting more diverse, extensive, and less expensive private sector financing. The Protocol created a more competitive and dynamic rail industry across the world and increased investment in these assets, which were cross-border in nature. It could also contribute to revitalising international trade and consequently strengthen the efforts to tackle the global food, energy and fertilizer crisis. Having ratified the Cape Town Convention and some of its protocols, Spain had repeatedly shown a great commitment towards UNIDROIT and its goals. He announced with great pleasure that his Majesty the King of Spain had concluded the domestic ratification procedure for the Luxemburg Protocol, which finally allowed not only the deposit of the instrument of ratification, but also its entry into force.

37. The Ambassador of Spain went on to convey Spain's full support of the Draft 2023-2025 Work Programme as approved by the Governing Council of which Professor Calvo Caravaca was a member. He made special reference to the project on the legal nature of VCCs, as well as the project on a guidance document on Corporate Sustainability Due Diligence in global value chains, observing that it arose out of a growing concern for the protection of human rights and environmental standards along international value chains. He stated that in rule-based countries, the law was a tool at the service of the citizens, and as such should address the challenges and opportunities that phenomena such as globalisation entailed, as well as the impact that issues such as climate change, conflicts or even pandemics might have on the function of the society and the environment. He expressed his confidence that UNIDROIT was the right institution to put forward legal instruments, principles, and rules that allowed the development of private law, while contributing to the enhancement of economic relations, effective international governments, and the achievement of the Sustainable Development Goals. In conclusion, he underlined that UNIDROIT would always find a very committed partner in Spain.

38. A representative of India showed her appreciation for the country's appointment as Chair of the General Assembly, assuring India's Ambassador her full cooperation during the deliberations. She also thanked the Secretary-General for the comprehensive presentation of the work of UNIDROIT. She underlined that India had been a Member State of UNIDROIT since 1950 and that UNIDROIT's mandate was quite unique. Within this mandate, UNIDROIT had produced several important instruments, such as the Cape Town Convention and the Aircraft Protocol. She reported that India had adopted important corresponding domestic legislation in the sector. Furthermore, she noted that India had taken part in the Preparatory Commission's deliberations on the Rail Protocol as well as the MAC Protocol, which were very important for India. Being a country with particularly important mining and agricultural industries, it had been following and contributing to the deliberation of the MAC Protocol closely. She took note of the Secretary-General's reflection that this Protocol would create a robust, internationally enforceable, secured financing system for high value MAC equipment, which would lower the risk and cost of accessing credit for MAC equipment. This would allow Indian companies to lease or acquire sophisticated, high value equipment at a lower price. Emphasising that the Indian authorities were examining accession to this Protocol, she noted that they would appreciate further information with respect to the registry of the MAC Protocol. Concluding, she assured that India stood ready to cooperate with UNIDROIT and fully acknowledged and endorsed both the work done by UNIDROIT over the past year as well as its forthcoming Work Programme.

39. A representative of Colombia congratulated the Chair on her nomination and thanked the Secretary-General for the report on the organisation's activities in 2022. He noted that Colombia, a Member State of UNIDROIT since 1940, highly valued the role of the Institute and recognised the benefits of its legislative function. Its wide range of legal instruments had been of significant impact regardless of the legal traditions and economic conditions of Member States. In the context of a globalised world, countries were to consider taking full advantage of the harmonised legal

instruments prepared by UNIDROIT and acceding to its conventions as well as implementing or disseminating the soft law instruments, such as principles, model laws and guides. He expressed his country's appreciation for the diversity of topics in the Institute's Work Programme, especially those related to contract farming, digital assets, bank insolvency, and cultural property. Colombia was looking forward to actively participating in the Working Groups for the next triennial Work Programme to be approved that day by the General Assembly. He indicated their special interest in the development of a guidance document on Corporate Sustainability Due Diligence in global value chains and the project on the legal nature of VCCs, explaining that those topics were of particular interest for Colombia, for which sustainable development and climate change were top priorities of the national agenda. Furthermore, he expressed gratitude for the permanent support and guidance provided by the Institute, as well as for the internship and scholarship programmes, underlining that the Institute's efforts to receive students and academics from all over the world was a valuable way to promote the study of private international law and comparative law. He highlighted the great significance of the permanent cooperation that existed with international organisations and United Nations agencies like FAO and IFAD. In this context, he emphasised the contribution to the global efforts to address the objectives of food security, especially those relevant to agricultural production, trade, and investment. He recalled that the President of Colombia had been vocal on many occasions in referring to the concept of food sovereignty and its importance for peace in Colombia, and that UNIDROIT could support his country in this regard. Finally, he expressed satisfaction with the organisation of the side event on soft law in international governance following the General Assembly's session, which would help identify some of the common concerns in the field of public international law making and its contemporary configurations. The Colombian lawyer David Fernando Varela from the Pontificia Universidad Javeriana would be participating in the event.

40. The *representative of the United States of America* congratulated UNIDROIT on another successful year, observing that this small organisation consistently achieved progress on very important files, even as it diligently stewarded limited resources and took care of its very talented and very busy staff. They welcomed the good news on the MAC Protocol and took note of the positive comments that many of the delegates made regarding this important instrument, which had been signed by their then Secretary of State at the seat of UNIDROIT more than two years ago. Acknowledging the importance of the instrument, he noted that data analysis showed that the MAC Protocol could deliver thirty billion dollars in economic benefits to UNIDROIT's member States, of which twenty-three billion would flow to developing nations, as access to credit would be facilitated in terms of credit for leasing and purchasing of MAC equipment. He congratulated the host of the diplomatic conference, South Africa, for their leadership, and also the other signatories to date, namely the Republic of Congo, the Republic of Colombia, the Republic of Paraguay, the Federal Republic of Nigeria, and most recently the European Union. Furthermore, he applauded the efforts to finalise the Supervisory Authority and the registrar as mentioned by the Secretary-General, and reaffirmed his country's willingness to partner with the Secretariat to raise awareness in countries that would most benefit from the instrument. He echoed the appreciation expressed by many delegates for the Institute's cooperation with the Rome-based UN agencies. With over 10% of the world's population that had faced hunger in 2021, a situation that had worsened considerably since the beginning of the Russian conflict in Ukraine, building resilience in agricultural communities, by promoting sound contracts, land investments, and legal structures for instance, was an important way of helping vulnerable communities thrive despite current and future shocks to global food systems. In this context, he thanked the Secretary-General for highlighting the linkages between the Model Law on Warehouse Receipts and resilience of agricultural communities. Finally, on the operational front, he commended UNIDROIT for its exemplary transparency and efficiency. He recognised that currently inflation was a challenge for all international organisations and welcomed regular updates from the Secretary-General and his team concerning the resources the Institute needed to deliver maximum on-the-ground impact through its important instruments.

41. A *representative of Indonesia* conveyed his country's appreciation for the comprehensive report on UNIDROIT's activities in 2022. He recalled that Indonesia had contributed to the activities of

UNIDROIT over the years and was active in its deliberations, including the Finance Committee and the General Assembly. Indonesia had also been active in the deliberations of several international instruments, such as the Cape Town Convention and the MAC Protocol. Indonesia welcomed the cooperation with FAO, IFAD and other organisations working on food and agriculture and responding to global challenges posed by food insecurity. Indonesia took the view that innovation and direction in this regard would be important and supported more engagement with UNIDROIT members in the form of visits, exchange of views, sharing best practices, technical and legal support, and joint research and internship programmes. Referring to the intention of the Secretary-General to visit Indonesia, he conveyed their hope that the visit could happen in the near future in order to strengthen their cooperation. He emphasised Indonesia's readiness to support the work of the Institute.

42. A *representative of Canada* thanked the Secretariat for the comprehensive report and stated that they were very pleased with the progress made under various projects over the past year, as well as with the corresponding allocation of resources. She thanked Minister Zanini for his excellent work, dedication and contribution as the Chair of the General Assembly over the past year and joined the other members in congratulating the new Chair on her nomination.

43. A *representative of Mexico* congratulated the Chair on her nomination and thanked the Secretary-General for the comprehensive presentation of the organisation's activities. He acknowledged the Secretary-General's mention of the successful Mondiacult conference that had been held in Mexico City in September 2022, and confirmed that, as exhibited during the past 82 years since joining UNIDROIT in 1940, Mexico would remain committed to work together with UNIDROIT to reach its important objectives. He highlighted that the increasingly globalised world with close interaction among States demonstrated UNIDROIT's crucial role, which deserved everyone's support, including the Mexican Government's.

44. The *Chair* invited the Secretary-General to respond to the comments and questions.

45. The *Secretary-General* thanked everyone for their kind words. He first addressed Spain's completion of the procedure to ratify the Rail Protocol, observing that it would entail the Protocol's entry into force 15 years after it had been approved in a diplomatic conference. He recalled that at times treaties took a long time to come into force, but once they had, they could gain considerable momentum. He noted that South Africa and a few other countries were also very close to ratification. Thus, 2023 would be the year of the Rail Protocol and of the development of the railroad industry, which was extremely important not least for environmental considerations. He went on to thank the distinguished representative of the United States of America for his words, especially those concerning the MAC Protocol. In the Secretariat's view, the Protocol could potentially be a global game changer by providing cheap access to financing for high value equipment in the agricultural sector. It would enable small agricultural entrepreneurs to move from subsistence farming to a commercial agricultural production, creating sustainable economic growth as a consequence. In line with the former interventions made by the delegates, the Secretariat firmly believed in the importance of the Protocol. In response to the question raised by the representative of India concerning the status of the registry of the MAC Protocol, he explained that there would be one international registry which served for the entire world. It would be an online registry, in which anyone could register online at any time and from anywhere. The process to appoint a registrar was still ongoing, while the main part had been completed, namely the issuance and completion of the request for proposals through an international tender. Five excellent candidates had been identified, and a selection committee that had been appointed by the Preparatory Commission had conducted an analysis of the experts, identifying a preferred candidate. The next step would be the appointment of a negotiating team, in which UNIDROIT would take part, to negotiate with this preferred candidate and determine the registrar in the coming months. Given that the process was still underway, he could not share any names or nationalities of the companies involved. He thanked his excellency the Ambassador of Spain and the distinguished representative of Colombia for their support not only of

the Institute's work generally, but also of the future projects on VCCs and Corporate Sustainability Due Diligence. Finally, he thanked the representative of Japan for his words of support and the representative of Indonesia for the same reason as well as for the invitation to Jakarta to meet with the authorities, which he was looking forward to.

46. *The General Assembly took note of the Statement regarding the Organisation's activity in 2022.*

Item No. 5: Adoption of the Work Programme of the Organisation for the 2023-2025 triennium (A.G. (81) 3)

47. *The Chair invited the Secretary-General to present the Work Programme of the Institute for the 2023-2025 triennium that had been recommended for adoption by the Governing Council at its 101st session in June 2022.*

48. *The Secretary-General drew the participants' attention to document A.G. (81) 3, recalling that the draft Work Programme had been drawn up based on the requests received by the Institute from proponents. This time, UNIDROIT had received 12 excellent proposals from different countries, international organisations and academic institutions, which had been analysed and presented to the Governing Council. While it had decided to recommend including a number of them in the Work Programme, with medium or high priority, some proposals had not been deemed developed enough, and were therefore only recommended for future exploratory work. He informed the participants that the Secretariat had made it clear to the Governing Council that, as a small organisation, the work that could be undertaken was based on the amount of money and human resources available. Working on six projects simultaneously and finishing the MAC Protocol infrastructure at the same time had already been challenging. He recalled that the Institute had more than doubled its traditional workload and increased the number of legal officers, in part thanks to the generosity of some governments such as that the People's Republic of China, the Department of Justice of China's Special Administrative Region of Hong Kong, and the Government of Italy, who had provided excellent legal officers supporting the Secretariat. The Institute welcomed the institution of more secondment programmes with other Member States, which was a format that was proving to be a win-win situation, involving a mutual exchange of knowledge between the officers and the organisation.*

49. *Notwithstanding the increase in staff, the Secretariat had conveyed to the Governing Council that it would initiate the new projects only as it finished the ongoing projects in 2023, or as new resources arrived. While three current projects, namely the Model Law on Warehouse Receipts, the Model Law on Factoring, and the work on Digital Assets would be finalised in May 2023, follow up work in the form of Guides to Enactment or Commentary had already been planned for the Factoring Model Law as well as for the Warehouse Receipts Model law. The resources available to start new projects would therefore still be limited in 2023. He highlighted that the more resources the Institute would receive, the more work could be accomplished at the same time, noting that this was indeed a call for the Member States' generosity to the extent possible.*

50. *Turning to the proposed Work Programme for 2023-2025, the Secretary-General began by asking the General Assembly to confirm, as the Governing Council had recommended, the mandate to continue and finalise the ongoing work. This included the six ongoing high-priority projects, as well as the finalisation of the Rail Protocol infrastructure including the regulations, as well as for the MAC Protocol to identify and appoint the Supervisory Authority and the registrar.*

51. *Next, the Secretary-General drew the participants' attention to page 13 of document A.G. (81) 3. He addressed the new project on principles of international commercial contracts and investment contracts, asking the General Assembly to approve the inclusion of the project in the Work Programme with high priority. He explained that this project on principles of international*

commercial contracts and investment contracts was a very important project which had already gathered considerable support from institutions all over the world. The project would be undertaken jointly with the ICC Institute of World Business Law, which had made the proposal, with UNIDROIT lending its private law expertise and the ICC its expertise on investment contracts. While the scope still remained to be defined, it mainly targeted contracts that were executed between sovereign States or their controlled entities on the one hand, and private investors on the other. The aim was to help modernise, harmonise and standardise those contracts from a private law standpoint. While UNCITRAL was undertaking work on dispute settlement in the area which concerned largely public law or public law related parts of investment contracts, UNIDROIT's focus would be exclusively on the contractual and private law aspects, ensuring full complementarity between the projects. He added that this was the first project that the Secretariat intended to begin with as soon as resources became available, and that financially-neutral but intense preparatory work with the ICC was already underway.

52. Turning to private law and agricultural development, the Secretary-General asked for the General Assembly's confirmation to continue work on Legal Structures for Agricultural Enterprises, together with FAO and IFAD.

53. Remaining in the area of agriculture and private law, he then drew the participants' attention to page 16, which presented a new project on a Guide to Agricultural Financing proposed for inclusion in the Work Programme with medium priority. This project had been proposed by the Government of the United States of America and, as agreed with the proponent and the Governing Council, would begin after the work on the legal structure of agricultural enterprises had been finalised, as it was complementary to that project. The proposal was to develop a guide to take stock of the most efficient instruments used for the financing of agricultural businesses, provide guidance on how the instruments could be best used, as well as how they related to one another, so that any business could select the financing mechanism that best suited its needs. Any additional best practices identified during the process could be added to the substantive work, however the project aimed at collating and creating a unified standard. The Secretariat would seek to partner again either with FAO and IFAD or with UNCITRAL, once the project was ready to be begin.

54. With regard to the project on Digital Assets and Private Law, the Secretary-General asked for the General Assembly's confirmation for its continuation until completion. Then he turned to the proposed project on the legal nature of VCCs, noting that it would be a natural follow up of the Digital Assets project, which had already been unanimously approved by the Assembly. He explained that the work on the legal nature of VCCs would fall exclusively on issues of private law, such as to identify what VCCs were from a private law standpoint, how to trade them, how to use them as collateral, or what happened when the holder of a VCC became insolvent. Regulatory matters such as the question of who would supervise the provision of a carbon credit or who determined the granting of a carbon credit would remain outside of its scope. Focussing on VCCs as an object of property, the future instrument would clarify the private law concepts for countries that sought to set up a system to trade VCCs. He informed that the project had been included at the request of one of the world's most important derivatives associations, the International Swaps and Derivatives Association (ISDA), and the Government of Paraguay. The expressions of support and interest on this project by the representatives of Italy, Colombia and Spain were noted.

55. Furthermore, the Secretary-General asked the General Assembly to confirm the continuation of two ongoing high-priority projects, namely those on Bank Insolvency and on Best Practices of Effective Enforcement, noting that he had already elaborated on the good progress made under both projects.

56. Next, he called the participants' attention to page 22, which contained the proposal for another new project on Private Art Collections. He noted that this project could begin immediately in 2023 without any need for further resources, as it would be undertaken in partnership with the

University of Geneva and with the financial support by the *Fondation Gandur pour l'Art*. He recalled that this important project had already been included in the Institute's Work Programme many years ago, at the request of the Government of Mexico and a former President of the General Assembly, who had also been a Member of the Governing Council for decades, Professor Jorge Sánchez Cordero. The project would focus on orphan objects, a concept in need of transnational legislative attention, and would address issues such as the definition of orphan objects, the rule of provenance and legal status of objects in art collections, and due diligence in the acquisition of orphan objects. He emphasised the problematic issue of trade of orphan objects of unknown provenance, especially when they originated from countries from which they had been stolen.

57. The Secretary-General then moved on to page 23 and the proposed project on Corporate Sustainability Due Diligence in global value chains, which had been included at the request of the European Bank for Reconstruction and Development (EBRD) and the International Development Law Organisation (IDLO), and to some extent also of the European Law Institute (ELI). He clarified that this project would only start when resources became available, noting that it had already received the endorsement by the representatives of both Spain and Colombia in their preceding interventions. The project concerned the private law aspects of the incorporation of clauses to ensure sustainable development in the value chain. He emphasised that the project would not address the definition of human rights or environmental standards, which fell within the mandate of other organisations, but rather focus on the private law aspects and how they could be incorporated in the value chain.

58. Furthermore, he shared that the Institute had received several other interesting proposals, which, however, the Governing Council had not deemed sufficiently developed. He referred to the project proposed by the World Intellectual Property Organization (WIPO) on personalised medicine, for instance, and that therefore the Secretariat would conduct exploratory work together with WIPO on the topic and might submit another proposal to the General Assembly next year.

59. The *Chair* thanked the Secretary-General for the presentation and opened the floor for comments.

60. A *representative of Japan* thanked the Secretary-General for the presentation of the new projects for the 2023-2025 period, and expressed confirmation and support for the ongoing projects as well as the new projects that were assigned high priority. He made special reference to the projects on investment contracts, legal structure for agricultural enterprises, and the legal nature of VCCs. He underlined Japan's continued support to the work of the Institute during the next triennium.

61. The *representative of the United States of America* thanked the Secretariat for the excellent work in preparing this summary and endorsed the mandate. He expressed agreement with the Secretary-General on the importance of finalising the already busy schedule of work, which contained six high-priority legislative projects, in addition to the five new legislative proposals. The representative acknowledged that it was a balancing act for the Secretariat in terms of staff well-being and career development against very high ambitions of Member States for the organisation. He had no concerns with the topics listed, agreed with the sequencing of the work, and welcomed the many references in the document to cooperation with UNCITRAL and the Hague Conference. He considered this type of cooperation the right formula to deliver maximum impact using limited resources. Such coordination would be welcomed whenever appropriate, for instance regarding climate change and the proposed work on VCCs. He concluded that private international law principles and tools would be crucial to working across borders to address today's challenges which did not respect borders.

62. A *representative of the Russian Federation* congratulated the Chair on her appointment, and also expressed support for the work of the General Assembly and for the new triennial Work Programme. She emphasised the feasibility of the future work on the implementation of the MAC Protocol and highlighted their interest in the joint work of UNIDROIT and UNCITRAL on a Model Law

on Warehouse Receipts. Furthermore, she expressed interest in the work related to the regulation of digital trade, in particular the project on Digital Assets and Private Law. She confidently commended the efforts of the Institute as a remarkable contribution towards the unification of private law.

63. A *representative of China* congratulated the Chair on the appointment and expressed his gratitude to the Secretariat and all the members of UNIDROIT for their excellent work, as well as to the President, the Secretary-General and the Deputy Secretary-General for their excellent leadership. He stated that China attached great importance to the work of UNIDROIT and that Member States expected UNIDROIT to use resources according to priorities and work closely with its members. He recalled that fast-changing science and technology, as well as the global economic landscape, required better harmonisation and coordination in the international private law regime than ever before. Against this backdrop, Member States would expect UNIDROIT, as a member-driven intergovernmental organisation, to use its resources wisely, and to identify and work on the most prioritised issues within its clear mandate, to contribute to a more favourable international private law environment. He affirmed that China stood ready to closely work with UNIDROIT and other Member States on projects that united stakeholders and brought benefits to all.

64. The *representative of Switzerland* echoed the statement made by the delegate of the United States of America in favour of better coordination and cooperation, which were important aspects for Switzerland. She noted that the mandates of international organisations operating in private law had been determined by the Member States, and most Member States of UNIDROIT were also Member States of UNCITRAL and the Hague Conference. Therefore, when there was an overlap in the Work Programmes, those States whose representatives were participating in several international organisations as well as the steering councils of these organisations should take on responsibility. That being said, she noted that some projects deserved to be on the agenda of several organisations, each with its own advantages and priorities that could complement each other. Therefore, Switzerland supported the Work Programme as presented and reminded the Secretariat that it had some flexibility in implementing the Programme, which might lead to giving preference to some projects and possibly delaying others if that allowed better coordination with the work of other organisations.

65. The *representative of Finland* thanked the delegates who had spoken in favour of constructive cooperation and coordination, and echoed that those were fundamentally important elements of productive work within the field of UNIDROIT's mandate. He emphasised that there was plenty of important work to be carried out while the resources were finite, not only within UNIDROIT but also UNCITRAL, the Hague Conference as well as their Member States. Wasting resources on overlapping work was to be avoided, and Member States should ensure that the work programmes of the organisations did not overlap. Cooperation was called for when the same projects were on the agenda of more than one organisation, and Finland was confident that the Secretariat would continue to ensure coordination. Expressing support for the adoption of the Work Programme as proposed, he seconded the notion that the Secretariat had a certain degree of flexibility in its execution, which they were confident it would make good use of.

66. The *Secretary-General* thanked all representatives for their interventions and endorsements. He stated with appreciation that the Secretariat had taken note of those representatives who mentioned a special interest in a particular project and would follow up when the time came to establish Working Groups and seek experts. In response to the several references that had been made to cooperation and coordination, he confirmed that UNIDROIT was proud of its very strong cooperation and coordination with other international organisations in general, with special regard to the Hague Conference and UNCITRAL. He observed that, at times, the scope of proposals submitted by States or international organisations was very broad. When one intergovernmental organisation receives such a broad proposal, and another organisation receives a more concrete proposal which, it might seem like there is an overlap, simply because the first one covered all related aspects. It would then appear as if no other organisation could work on any related topic. Therefore, the

organisations have to exchange and employ their established mechanisms of coordination to ensure that the final instruments do not overlap but rather build on each other's work. Addressing the statements made by the distinguished representatives of Finland and of Switzerland concerning the use of flexibility to ensure coordination moving forward, he agreed that it was part of the mandate received from the Governing Council, as well as in the Institute's interest, to coordinate with the other organisations whenever necessary. Recalling that this had been the line expressed in the exchange of correspondence with the Secretariat of UNCITRAL on the matter, he reiterated that the Institute's approach had always been one of coordination to identify fruitful solutions, such as in the case Model Law on Warehouse Receipts that had been mentioned by the representative of the United States.

67. *The General Assembly approved the recommended Work Programme of the Organisation for the 2023-2025 triennium.*

Item No. 6: Final modifications to the Budget and approval of the Accounts for the 2021 financial year (A.G. (81) 4)

68. *The Chair invited the Chair of the Finance Committee to make some introductory remarks on this agenda item and present the Finance Committee's recommendations on all related financial matters.*

69. *The Chair of the Finance Committee reported that the Committee had held its 94th session at the Institute on 20 October 2022, with the attendance of Brazil, Canada, the People's Republic of China, France, Germany, Indonesia, Iran, Italy, Japan, Spain, Switzerland, the United Kingdom, and the United States of America. In general terms, the Finance Committee had approved the approach, commending the Secretariat, the staff and the Secretary-General for the transparency and the diligent use of resources. Starting with agenda item 6 on final modifications to the Budget and Accounts of the 2021 financial year, the Committee recommended the approval of the modifications as presented. Turning to agenda item 7, the adjustments to the Budget for the 2022 financial year, he noted that the Committee had endorsed the proposed changes. With regard to agenda item 8, arrears in contributions of Member States, the Committee had agreed with the Secretariat that the accumulation of arrears was a very serious issue that needed to be addressed urgently. The Committee had noted that current arrears represented 25% of UNIDROIT's annual Budget. It had recommended that the Secretariat inform Member States of the statutory consequences of multiple years of arrears, including with respect to next year's elections for the Governing Council, hoping that this would encourage Member States to settle their payments. As to agenda item 9 on the draft Budget for the 2023 financial year, the Committee had also viewed this budget favourably and had recommended it for approval. Finally, concerning agenda item 10, the update on the pension scheme for UNIDROIT staff, he reported that the Committee had approved the proposal from the Secretariat to transfer some of the pension fund assets to a longer-term bank account in order to obtain better interest rates. In summary, the Financial Committee had endorsed all the recommendations.*

70. *The Chair thanked the Chair of the Finance Committee for the report, and invited the Secretary-General to address the final modifications to the Budget and approval of the Accounts for the 2021 financial year.*

71. *The Secretary-General thanked the Chair of the Finance Committee for his report, considerations and for his work overall in this role. He explained that the Finance Committee met twice a year, in spring and in autumn, to prepare the documents, and acknowledged that their rigorous analysis was very helpful for the Secretariat. Referring to document A.G. (81) 4, he explained that, an expenditure of € 2,345,000.00 and receipts of the same amount had initially been envisaged. Although the Institute had been able to save and spend less than allowed by approximately € 46,000.00, the final outcome showed a loss of about € 57,000.00 owing to a decrease in receipts, rather than over-expenditure. He however reassured the Assembly of the*

merely formal nature of the issue, as it was due to a later payment from a European country resulting from a switch of UNIDROIT's portfolio of to a different ministry and consequent internal budget alterations. Because the payment exactly € 57,000.00 had arrived one week later than the closure of the financial year, it was merely too late for it to be included in the financial accounts.

72. The *Chair* thanked the Secretary-General for the presentation of the document and opened the floor for comments.

73. *The Chair concluded that the General Assembly had approved the final modifications to the Budget and Accounts for the 2021 financial year and that the Secretary-General had discharged his responsibility for the management of the 2021 financial year in accordance with Article 38(5) of the Regulations.*

Item No. 7: Adjustments to the Budget for the 2022 financial year ([A.G. \(81\) 5](#))

74. The *Chair* noted that the General Assembly was responsible for approving any adjustments to the Budget for the current financial year and invited the Secretary-General to present the adjustments.

75. The *Secretary-General* referred to document A.G. (81) 5 and explained that the first draft Budget had been drafted by the Secretariat, submitted to the Finance Committee at its meeting in spring, and subsequently taken to the Governing Council, which formally the Budget. It had then been transmitted to Member States, and then overseen by the Finance Committee's session in autumn, including any modifications that had been deemed necessary in light of the actual expenditure at the time. Hence, it calibrated the envisaged budget with the actual one. In light of this and with the Finance Committee's approval, the Secretariat proposed to the Assembly to approve this document, which included an increase of about € 40,000.00 of both expenditure and receipts. The additional receipts that were proposed would derive from tax reimbursements that the Institute was still receiving for the United States of America for a former employee that had left the Secretariat a few years ago. He observed that the Institute had substantially increased the amount of money received as revenue for the sale of its publications, which compensated the increase in the costs for salaries and social security.

76. The *Chair* thanked the Secretary-General and opened the floor for comments.

77. *The Chair concluded that the General Assembly had taken note of the expected level of receipts and expenditure for the 2022 financial year and approved the adjustments to the Budget, as set out in the Appendix.*

Item No. 8: Arrears in contributions of Member States ([A.G. \(81\) 6 rev.](#))

78. The *Chair* invited the Secretary-General to update the General Assembly regarding the status of arrears.

79. The *Secretary-General* began by recalling that arrears were problematic for a small organisation like UNIDROIT, given that they constituted the main source of income of the organisation. While the Secretariat worked very efficiently, achieving very positive results with such a small budget, that work would be under threat if even that budget was not secure. While the Secretariat certainly understood the difficulties of countries and the hardship that they had to go through in these difficult times, he urged Member States to consider settling their arrears so that the Institute could conduct its work as foreseen in its mandate. He encouraged any country that had accumulated many years of arrears to approach the Secretariat to discuss possible solutions which could be negotiated to present a proposal to the Finance Committee. However, he cautioned that this would

only be possible in very exceptional circumstances. As to the consequences of arrears he referred to the UNIDROIT Statute, which established that accumulating three years of arrears resulted in the loss of the right to vote in the General Assembly. The principle whereby a country that did not pay its contribution could not take part in the decisions was a statutory one, not made by the Secretariat and he emphasised that it also had no discretion in its application.

80. The *representative of Venezuela* thanked the Secretary-General for the explanation, and raised the question of how to proceed if a State had the intention of paying but could not find a way to do so. A State might have accumulated arrears due to measures blocking that State's access to the financial system, as was the case of Venezuela, hence preventing them from paying. He reported that his country had repeatedly tried to pay international organisations only to have the money either been blocked or frozen, through no fault of its own.

81. A *representative of Germany* raised concerns, noting that arrears of over € 400,000.00 –and presumably even a higher amount if the numbers of 2022 were added –endangered the work of UNIDROIT, which only had modest financial resources. Therefore, the German Government strongly supported the efforts of the Secretary-General to reduce the arrears of contributions through dialogue with the governments of the relevant Member States. She emphasised that it should be made clear to the Member States concerned that the Statute provided for sanctions for arrears spanning over several years.

82. *The Chair* noted the great importance of this agenda item, specifically in the context of active membership in UNIDROIT and its voting processes. She took note of the constructive approach offered by the Secretariat regarding negotiations with Member States that were not in a position to pay their contributions. In that context, she requested the Secretary-General to address the question raised by the distinguished delegate of Venezuela concerning cases of blocked access to financial systems.

83. The *Secretary-General* replied that the Secretariat had little discretion in that regard. It was merely applying the Institute's Statute, which provided for the loss of voting rights for Member States with over three years of arrears, regardless of whether non-payment was voluntary or not. The rule merely implied that if a country did not pay its contributions, it would not have the benefit of the vote. He added that the Secretariat had taken note of the statement made by the representative of Venezuela.

84. The *representative of Venezuela* reported that the International Criminal Court had established a mechanism whereby exceptions could be made for a Member State upon submission of a letter detailing the reasons for its inability to pay.

85. The *Secretary-General* noted that, based on the Secretariat's records, Venezuela's arrears spanned over more than 10 years, and that it was therefore not an exceptional but a long-standing situation. Nevertheless, the Secretariat would be glad to have a conversation with the Government of Venezuela or its representative as appropriate and would then present their views to the Finance Committee. He highlighted that any decision had to be taken by the Finance Committee, and ultimately the General Assembly, as the Secretariat did not have the discretion to decide on contributions. He invited the representative and his country to liaise with the Secretariat and propose a solution, which would then be forwarded to the Finance Committee for consideration.

86. *The Chair* urged Member States to pay their contributions if possible, and otherwise approach the Secretariat with their proposals for negotiation. She stated that it would be in the interest of everyone, especially the Member States, to enter into such negotiations to retain their voting rights and have an active membership.

87. *The Chair then concluded that the General Assembly had taken note of the Secretariat's report on arrears.*

Item No. 9: Approval of the draft Budget for 2023 and observations submitted by Member States ([A.G. \(81\) 7](#))

88. The *Chair* invited the Secretary-General to present the draft Budget for the year 2023, noting that the General Assembly was responsible for approving the Budget on the basis of the recommendation given in this regard by the Finance Committee.

89. The *Secretary-General* referred to document A.G. (81) 7, explaining that this Budget had been drafted and examined by the Finance Committee in May 2022. The document had subsequently been approved by the Governing Council in June and shared with the Member States for comments. He reported that the Secretariat had received comments from two Member States: Brazil and Ireland. The Government of Brazil had requested the Finance Committee and the General Assembly to renew the extension of the temporary suspension of its reclassification in the Contributions Chart, which had been granted in the previous two years based on the exceptional economic circumstances of the country. He recalled that the General Assembly had accepted the request twice on the basis that it was an exceptional condition and that Brazil was to double its contribution within one year. In the notification presented to the Secretariat, which was attached to document A.G. (81) 7, Brazil had asked to be granted this exception again. Accordingly, the Budget contemplated the income for contributions as if the General Assembly would accept this proposal. On the other hand, the Republic of Ireland and –although not expressly notified– Portugal, had confirmed that they would voluntarily remain in a higher Member State contribution category in 2023, providing more resources than they were required to, for which the Secretariat was enormously grateful. Lastly, he reported that the Secretariat had just received a Note Verbale from the Republic of Argentina the very day of the General Assembly’s session, renewing their petition for a suspension of application of the current contributions chart.

90. The *Chair* invited the representative of Argentina to comment on his country’s request for a renewal the suspension.

91. The *representative of Argentina* reported that Argentina had made a formal request to renew the suspension of application of the current contributions chart for yet another year, as already granted at the last two sessions of the General Assembly. The request was motivated by the economic situation of the country which rendered it unable to increase its contributions to international organisations. He noted that, owing to the timing of this request, the Secretariat had not been able to circulate it alongside the other documents to the Member States for their consideration prior to the General Assembly’s session.

92. The *Chair* invited the Secretary-General to respond to the intervention.

93. The *Secretary-General* stated that, in light of informal conversations, Argentina’s request had already been anticipated and was therefore reflected in the draft Budget as if the petition had been formally made.

94. He went on to note that the proposed Budget was similar to previous years. It provided for an increase in the sale of publications, since the Rail Protocol would come into force and the existence of a third edition of the Rail Protocol Official Commentary should substantially enhance the Institute’s revenues in publications. He stated that the Secretariat had been conservative by foreseeing only a € 10,000.00 increase and that it expected the increase to be considerably higher. However, he cautioned that the cost of energy in the Budget might need to be adjusted over the course of the next year, given that the cost of heating and other related expenditure might increase substantially. He further noted that the costs of salaries and social security might also need to be slightly adjusted for the next year. This was not due to a forecast increase in expenditure, but to the fact that the system, as approved by the General Assembly, had been designed in a way that provided for an automatic upgrade in the salaries of staff members, professional and support staff alike.

Consequently, costs for salaries and social security would increase about 2% every year. As the Members States' contributions did not increase accordingly, this would lead to a deficit, which was a structural issue to be addressed. Nevertheless, the Secretariat continued to present budgets without a deficit, because it applied strict austerity and also captured extra-budgetary resources providing some leeway in terms of spending. Overall, the Secretariat had to make enormous efforts to continue complying with the budgetary equilibrium, notwithstanding the fact that it had a fixed increase in expenditure every year without any additional contributions by governments. In view of the above, the Budget might need to be modified at some point.

95. *In the absence of comments, the Chair concluded that the General Assembly had approved the Budget for the 2023 financial year.*

Item No. 10: Update on the pension scheme for UNIDROIT staff ([A.G. \(81\) 8](#))

96. The *Chair* invited the Secretary-General to present the update on the pension scheme for UNIDROIT staff, which had been adopted at the General Assembly's 76th session in December 2017.

97. With reference to document A.G. (81) 8, the *Secretary-General* noted that the social security system applied to all new staff members who had joined the Institute since 2019, as well as to those staff members who had joined before 2019 and had then opted to join the new system. He recalled that UNIDROIT had joined the pension system of the ISRP, in which also other organisations such as the Organisation for Economic Co-operation and Development (OECD) participated. The Secretariat had been informed that the Institute was still under the threshold of ordinary management initially set at € 500,000.00, because otherwise the management costs would be too high, and could thus not be part of the full investment policy. With the approval of both the General Assembly and the Finance Committee, it had therefore been decided that the money should be kept in a bank account. The bank account rendered very low interest, which had been acceptable until inflation rose, but since, about 8% of the value in the account was lost every year. Moreover, the ISRP had presented UNIDROIT with a new threshold for investment, which had been set at € 900,000.00. While it was hoped that that threshold would be met in a year or two, the Secretariat had asked the Finance Committee to allow some of the pension fund assets to be transferred to a longer-term bank account in order to obtain better interest rates. The Finance Committee had approved this proposal and the Secretariat hoped that the General Assembly would support it.

98. *In the absence of comments, the Chair concluded that the General Assembly took note of the Secretariat's update regarding the social security scheme applicable to UNIDROIT staff, as well as of the update provided in the report of the ISRP – CAF, Committee for the Administration of Funds, enclosed in the Annexe to document A.G. (81) 8, and approved the Finance Committee's recommendations.*

Item No. 11: Any other business

99. *In the absence of any interventions, the Chair thanked all the Member States for their valuable contributions and the Secretary-General and his entire team for their hard work. Furthermore, she expressed her gratitude to all the participants present in person as well as online for their participation and inputs during the session. The Chair then declared the session closed.*

APPENDIX I**LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS**81st session of the General Assembly / 81^{ème} session de l'Assemblée Générale

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ESTONIA / <i>ESTONIE</i>	<i>[Excusé]</i>
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SOUVERAIN DE MALTE

Mr Ugo PATRONI GRIFFI
Grand Chancellor

APPENDIX II**AGENDA**

1. Opening of the session by the Secretary-General and the Chair of the General Assembly 2021-2022
2. Election of the Chair of the General Assembly 2022-2023
3. Adoption of the agenda (A.G. (81) 1)
4. Statement regarding the Organisation's activity in 2022 (A.G. (81) 2 rev.)
5. Adoption of the Work Programme of the Organisation for the 2023-2025 triennium (A.G. (81) 3)
6. Final modifications to the Budget and approval of the Accounts for the 2021 financial year (A.G. (81) 4)
7. Adjustments to the Budget for the 2022 financial year (A.G. (81) 5)
8. Arrears in contributions of Member States (A.G. (81) 6 rev.)
9. Approval of the draft Budget for 2023 and observations submitted by Member States (A.G. (81) 7)
10. Update on the pension scheme for UNIDROIT staff (A.G. (81) 8)
11. Any other business.