



**GOVERNING COUNCIL**  
**95<sup>th</sup> session**  
**Rome, 18 - 20 May 2016**

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**Item No. 7 on the agenda: Private Law and Agricultural Development**

**a) Follow-up activities and promotion of the UNIDROIT/FAO/IFAD Legal Guide on Contract Farming**

(prepared by the Secretariat)

<i>Summary</i>	<i>Report on the follow-up activities and promotion of the UNIDROIT/FAO/IFAD Legal Guide on Contract Farming</i>
<i>Action to be taken</i>	<i>The Council is invited to take note of the report</i>
<i>Mandate</i>	<a href="#">Work Programme 2014-2016</a> (UNIDROIT 2013 – A.G. (72) 4) pp. 10-11.
<i>Priority level</i>	<i>For promotion activities: high</i> <i>For new activities: to be determined</i>
<i>Related documents and Web resources</i>	UNIDROIT /FAO/IFAD Legal Guide on Contract Farming <a href="#">Contract Farming webpage</a> <a href="#">Community of Practice on Legal Aspects of Contract Farming Webpage</a>
<i>Dissemination documents:</i>	<a href="#">Leaflet</a> : <i>Creating a Favourable Legal Environment for Contract Farming</i> – <a href="#">Brochure</a> : <i>UNIDROIT/FAO/IFAD Legal Guide on Contract Farming: an Overview</i>

**I. BACKGROUND**

1. A UNIDROIT Working Group for the preparation of a Legal Guide on Contract Farming was set up pursuant to the decision taken by the UNIDROIT Governing Council at its 91st session (Rome, 7-9 May 2012). The Working Group, chaired by Professor Henry D. Gabriel, member of the UNIDROIT Governing Council, was composed of contract law experts, representatives of the Food and Agriculture Organization of the United Nations (FAO) and the International Fund for Agricultural Development (IFAD) as partner organisations, and included observers from other multilateral organisations as well as representatives of agricultural producers and agribusiness. The Group held two sessions in 2013, and two sessions in 2014. To inform the preparation of the final draft, consultation meetings took place in Buenos Aires, Bangkok, Rome and Addis-Ababa, followed by consultations on Internet (see Annual Report 2014, pp. 10-11). The regional consultations as well as the meetings of the Working Group in 2014 were funded by a grant from IFAD.

## **II. ADOPTION OF THE UNIDROIT/FAO/IFAD LEGAL GUIDE ON CONTRACT FARMING BY THE UNIDROIT GOVERNING COUNCIL AND RELEASE OF THE PUBLICATION**

2. The *UNIDROIT/FAO/IFAD Legal Guide on Contract Farming* was adopted by the UNIDROIT Governing Council at its 94<sup>th</sup> session in May 2015.

3. The publication in English was released in both paper and electronic form on 28 July 2015 at a launch event held at UNIDROIT, in the presence of Mr José Angelo Estrella Faria, UNIDROIT Secretary-General, Mr Antonio Tavares, FAO Legal Counsel, Ms Eugenia Serova, FAO Director of Rural Infrastructure and Agro-Industries Division (AGS), and Mr Gerard Sanders, IFAD General Counsel, representing the three organisations co-authors of the Guide.

4. The French version of the Guide was released later in the Autumn of 2015, and the full text of both versions is freely accessible on the websites of UNIDROIT and its partner organisations. UNIDROIT financed the publication of the volumes of Legal Guide in English and French and applies a generous distribution policy as part of the dissemination strategy.

## **III. PLANS REGARDING THE IMPLEMENTATION OF THE LEGAL GUIDE**

### **A. The IFAD/FAO Implementation Project**

5. Mindful of the importance of making the Legal Guide useful and operational for end-users, IFAD agreed to deliver a new grant to FAO for 2016-2017. The goal of this Project is to significantly expand the impact and benefit of the Legal Guide by disseminating its core messages and recommendations and enabling its accessibility, leading to the engagement of poor rural women and men in profitable and sustainable linkages to markets through contractual relations with farm product buyers.

6. The Project is organized into four components: (1) preparation of outreach materials; (2) capacity building; (3) online dissemination and knowledge transfer; and (4) oversight and review. Within these four components, there are a total of ten planned activities, as outlined in the following sections.

1.1: Translation of the Legal Guide into Spanish

1.2: Guidelines for better contract farming operations: these will consist of one concise and reader-friendly document of about 20-30 pages, serving as a basis for two shorter publications targeting (a) farmers and (b) regulators.

1.3: Analysis of regulatory frameworks for contract farming. The purpose of the study is to identify regulatory trends that can assist countries to formulate their national legislation for contract farming.

While initially planned to be carried out by FAO, FAO's Legal Counsel sent a letter to the UNIDROIT Secretary-General on 11 March 2016 proposing further collaboration between UNIDROIT and FAO Legal Office in preparing this study, which could "complement the work already undertaken in the development of the Legal Guide as well as facilitate its implementation by national regulators". While expressing interest in principle for such collaboration, the Secretary General indicated that he would seek the Governing Council's endorsement. The FAO Legal Counsel's letter is attached hereto as Annex I.

1.4: Contract templates, to be developed by FAO and the International Institute for Sustainable Development (IISD). The templates, that will fully adhere to the principles and recommendations of the Legal Guide, will be produced to cover different categories of commodities, taking into account different types of contracts ("market specification" and "input resource provision" types). They will also include explanatory notes and points for consideration where there may be a need for contextualization to different legal systems and to suit the needs of specific parties (i.e. individual smallholder farmers vs. cooperatives).

1.5 and 1.6: Preparation - and validation in pilot workshops - of extension training materials for use in workshops and e-learning platforms, that adapt in simplified language and correspond to each of the eight different chapters of the Legal Guide, for a broad audience of extension agents, development professionals, agribusiness enterprises, smallholder farmers and other stakeholders of contract farming operations.

2.1: Three “training of trainers” regional workshops on planning and implementing responsible contract farming operations, in Latin America and the Caribbean, East and Southern Africa and the Asia Pacific region.

3.1: Reformulation and upkeep of Contract Farming Resource Centre to improve its accessibility and ease of use.

3.2: Establishment by UNIDROIT of a Community of Practice on Legal Aspects of contract Farming (CoPL/CF) within the framework of the Global Forum on Law, Justice and Development (GFLJD) (see below under b)).

4.1: Establishment of an Advisory Board formed by professionals from the major stakeholders of the project, including from IFAD, FAO and UNIDROIT, to provide the executing partners with guidance and advice on how activities and outputs can be developed in order to best comply with the project goal and act as “promoters” of the project and its results, thus contributing to the dissemination of its activities. Members will *inter alia* provide feedback on the major knowledge products generated by the project by contributing to the review of studies, publications and other dissemination / outreach material.

## **B. The Community of Practice on Legal Aspects of Contract Farming (CoP/LACF)**

7. The *Community of Practice on Legal Aspects of Contract Farming (CoP/LACF)* supported by the IFAD/FAO Implementation Project, was established by UNIDROIT, FAO, IFAD within the framework of the *Global Forum on Law, Justice and Development (GFLJD)*. This World Bank initiative provides an innovative and dynamic framework for the exchange of law in development knowledge, connecting developing countries, think-tanks, regional and international organizations, international financial institutions, and civil society organizations with relevant research and practice. See: <http://www.globalforumljd.org/>

8. The CoP/LACF has the main objective of promoting a favourable legal environment for contract farming operations through knowledge sharing and dissemination, as well as projects pursued individually by the partners and members or the basis of joint initiatives. A dedicated internet webpage hosted as part of the Contract Farming webpage of the UNIDROIT Website (<http://www.unidroit.org/community-of-practice/home>) serves as a repository of information and a platform for the exchange of knowledge among partners, and the dissemination of tools and projects in furtherance of the objectives of the Community of Practice. The Community of Practice provides an opportunity for partners and members to give visibility to their activities and build synergies with potential partners, including sponsor and financing institutions, for the development of products and projects.

9. Within the *Global Forum on Law, Justice and Development (GFLJD)* Internet platform, the CoP/LACF has two different spaces offering interactive opportunities: one on the Global Forum front page (<http://www.globalforumljd.org/themes/thematic-working-groups-and-communities-practice>) and one on the World Bank C4D platform (<https://collaboration.worldbank.org/groups/gfjid>).

10. Participation in the CoP/LACF is open to international and national institutions working in the development, legal harmonisation and agricultural fields, private and public sector groups representing both agricultural producers and buyers, as well as academic and research institutions or individual experts with an interest in the area.

11. Activities and projects contemplated for the period 2016-2017 will focus on:

- establishing and maintaining a network of partners and members, mainly with international organizations, representatives and counsels of the farming community and the private sector, academic legal circles and government entities;
- developing additional content for the Community of Practice Website. As a repository of legal resources, the website will include, *inter alia*, the research material collected during the preparation of the Guide, as well as tools and instruments developed by partners and members;
- promoting divulgation events, academic and research activities and the preparation of knowledge instruments;
- preparing communication tools and strategy to support the activities of partner institutions.

12. A financial contribution from the global IFAD/FAO implementation project in the amount of 18.000 USD for 2016-2017 is intended to support the establishment of the CoP. Between 1 October 2015 and 31 March, Mr Ercole de Vito was offered a consultancy to support the Secretariat's action regarding the promotion of the Legal Guide and follow-up initiatives, especially in building the CoP internet platform, liaising with the LJD Global Forum on LJD and developing fund-raising strategies. UNIDROIT is significantly contributing to the project with one-month compensation paid to Mr de Vito under the UNIDROIT budget, and through coordination by a Senior Officer, secretariat and IT support as needed. The Secretariat will also seek to raise funding for projects developed by the CoP itself such as the organisation of events, research scholarships, or else, projects to be developed by CoP's members.

#### **IV. MEETINGS, CONFERENCES AND PROMOTION EVENTS OF THE LEGAL GUIDE**

13. Since the 94<sup>th</sup> session of the Governing Council, the UNIDROIT Secretariat organised or participated in different initiatives or events where the Contract Farming Legal Guide was presented:

- The Legal Guide was presented and discussed at the Session on "Managing Farmers' Rights" of the Farmers' in EXPO Workshop on Farmers' Capacity Building" held on 24 June in the context of the World Farmers' Organisation – WFO General Assembly, held in Milan on 24-27 June. The presentation was made by Mr David G. Velde, Vice President of International Affairs, NFU-USA, Washington D.C. and Ms Frederique Mestre, Senior Officer, UNIDROIT.
- On 14 April, within IMF-WB Spring Meetings – Washington D.C. (USA): UNIDROIT, jointly, with other partners, *i.e.* FAO, IFAD, the World Bank and WFO, organized a session on "Contract Farming as a Tool for Economic and Social Development". UNIDROIT was represented by its President, Prof. A. Mazzoni.
- On 21 October, the Department of Business Law, the Open Chair of Rural Affairs and the Law of Land Specialization of the Universidad Externado de Colombia and UNIDROIT, co-hosted a seminar on "Challenges in agricultural productivity in the world – Perspectives from the UNIDROIT/FAO/IFAD Legal Guide on Contract Farming and its Application in Colombia" with the participation of UNIDROIT representatives, *i.e.* Mr José Angelo Estrella Faria, Secretary General, and Prof. Fabrizio Cafaggi, member of the Working Group on Contract Farming, as well as of representatives from the Colombian Government and academic circles.
- On 24 October, UNIDROIT hosted a meeting with a senior delegation from the Chinese Food and Drug Administration, headed by Mr Mao Zhenbin, Director General of the Department of Emergency Management, and organised by Mr Donald Macrae, Senior Consultant to the World Bank and the Global Food Safety Partnership. In particular, the meeting focussed on the potential of contract farming to support food quality and safety objectives, on the Legal Guide and on the Implementation Strategy adopted in various countries.

- On 20 November, as part of “Law Justice and Development Week 2015”, World Bank, Washington D.C. (USA). UNIDROIT, jointly with other partners i.e. FAO, IFAD, the World Bank, WFO and USAID, organized a Session on "Promoting Good Practices for Agricultural Investment". UNIDROIT was represented by its President, Prof. A. Mazzoni.

- On 14-16 December, Abidjan (Côte d’Ivoire). Training session organized by IISD (International Institute for Sustainable Development) in partnership with various other institutions as part of an awareness initiative targeting African parliamentarians (the Pan-African Parliament and regional parliaments), entitled "Making Agricultural Investment Work for Africa". The session focused on the political and legal options relating to foreign investment in agriculture, as well as new policies, guidelines and projects on land issues and contract farming. UNIDROIT was represented by Ms Frédérique Mestre, Senior Officer (UNIDROIT).

14. Events in 2016 where the Legal Guide was, or will be presented and discussed, include:

- On 11 March, at the World Food Programme (WFP) headquarters, a working session between Secretariat members of the participating organizations (UNIDROIT, FAO, IFAD, the International Institute for Sustainable Development - IISD, and the World Food Programme – WFP) aimed at sharing experiences and information on future actions in relation with contract farming schemes or related contract modalities with small farmers. Discussions focused on the recently adopted UNIDROIT/FAO/IFAD Legal Guide on Contract Farming, current implementation plans, and on how the Legal Guide may be used in field operations.

- On 27 April at UNIDROIT: International Conference on “Creating a favourable legal environment for Contract Farming - The UNIDROIT/FAO/IFAD Legal Guide on Contract Farming” – in collaboration with FAO and IFAD under the auspices of the Ministry of Foreign Affairs and International Cooperation of Italy. The Conference aimed to provide information on contract farming and explain the approach and practical usefulness of the Legal Guide. It likewise provided information on current plans regarding the implementation of the Legal Guide. The programme of the event is attached to this document as Annex II and the report will be made available soon.

The Conference was primarily directed to diplomatic representations in Italy who deal with UNIDROIT (under the legal perspective), and with FAO and IFAD (under an agricultural development approach), and are ideally placed to convey the corresponding information to stakeholders in their respective countries. International organisations, non-governmental organisations, and bilateral cooperation agencies involved in contract farming, have also been invited to attend and actively participate in the discussions.

Before the closing of the Conference, representatives from several member States (Brazil, Indonesia, Spain), and non-member States (Morocco and the Philippines) as well as from one bilateral cooperation agency (the German development cooperation agency, GIZ) made statements which emphasised the relevance and usefulness of the Guide with regard to contract farming regulation in their respective jurisdictions or areas of action and commended UNIDROIT, FAO and IFAD for this achievement. It is particularly worth mentioning that the Philippine government has indicated that it “utilizes the Legal Guide in framing the issues and setting the benchmarks on contract growing arrangements entered into by smallholder farmers, including those that are family farmers. The Legal Guide also helps in assessing the regulatory environment governing contracts between the parties”.

The Conference was instrumental in raising awareness toward the Legal Guide among participants, and several delegations have manifested their interest in organising follow-up activities in their country or region.

- On 5–7 June, in Rome, at the 4th Mediterranean Conference of the International Bar Association on “Sustainable Agriculture and Food Security in the Mediterranean Region”. The Guide will be presented by a member of the UNIDROIT Secretariat and discussed within the session on “food self-sufficiency, distribution and agricultural commerce”.

- It is envisaged that other activities will be organized either by the co-leaders of the CoP/LACF or, as the CoP starts building up membership, by the members of the CoP.

## **V. POSSIBLE FUTURE WORK IN THE AREA OF PRIVATE LAW ASPECTS OF AGRICULTURAL FINANCING**

15. In considering the Work Programme for the 2017-2019 triennium, the Governing Council will envisage possible topics to be addressed in the area of private law aspects of agricultural financing. These include in particular the following:

- the preparation of an international guidance document on land investment contracts, regarding which the Secretariat has prepared a preliminary study (C.D. (95) 7(a)) to be considered by the Council at this 95<sup>th</sup> session;
- the reform and modernisation of land tenure regimes; the legal structure of agricultural enterprises; an international guidance document to agricultural financing, all topics which featured in the 2014-2016 UNIDROIT Work Programme with a low priority;
- proposals made by member States and international organisations in particular:
  - the proposal presented by Ministry of Justice of Hungary to: “[...] analyse the contractual practice of co-operatives in order to clarify whether their appropriate functioning could be facilitated by an eventual international unification. In this respect, especially the supply co-operatives and sales co-operatives would have relevance.”
  - the interest expressed by the World Bank regarding the area of contract farming, and the suggestion that “in this field, possible collaboration could take the form of further developing supply chain financing and secured agricultural financing practices”.

## **VI. ACTION TO BE TAKEN**

16. *The Governing Council is invited to take note of the present Secretariat Report on the follow-up activities and promotion of the UNIDROIT/FAO/IFAD Legal Guide on Contract Farming, and to encourage the Secretariat to continue its collaboration with FAO and IFAD in this regard.*

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Our Ref.:

Your Ref.:

Rome, 11 March 2016

Dear Mr Estrella Faria,

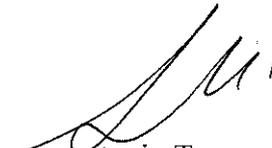
I refer to the successful collaboration between UNIDROIT and FAO for the development and implementation of the UNIDROIT/FAO/IFAD Legal Guide on Contract Farming ("the Legal Guide"). I write, in particular, to propose further collaboration between UNIDROIT and the FAO Legal Office.

As you know, one of the activities included in the new IFAD Grant project for the implementation of the Legal Guide is a legislative study analyzing regulatory frameworks for contract farming. The purpose of this study is to identify regulatory trends that can assist countries to formulate their national legislation for contract farming.

Considering the expertise and experience of UNIDROIT in private law, and the background work undertaken by UNIDROIT in preparation of the Legal Guide, we consider that this study presents a good opportunity for collaboration between the FAO Legal Office and UNIDROIT. This collaboration could, in our view, complement the work already undertaken in the development of the Legal Guide, as well as facilitate its implementation by national regulators.

I look forward to receiving your reply to this proposal, and to further strengthening the collaboration between our two organizations.

Yours sincerely,



Antonio Tavares  
Legal Counsel

Mr José Angelo Estrella Faria  
Secretary General  
UNIDROIT  
Via Panisperna, 28  
Rome



**CREATING A FAVOURABLE LEGAL ENVIRONMENT FOR  
CONTRACT FARMING**

***The UNIDROIT/FAO/IFAD Legal Guide on Contract Farming***

**UNIDROIT – Villa Aldobrandini  
Via Panisperna 28 – Rome**

**Wednesday, 27 April 2016**



**An International Conference hosted by**

**UNIDROIT**

**in collaboration with FAO and IFAD**

**under the auspices of the**

**Ministry of Foreign Affairs and International Cooperation of Italy**

## PROGRAMME

8.30 – 9.00      *Registration*

### 9.00 – 9.15      **Opening**

- Mr José Angelo Estrella Faria, UNIDROIT Secretary-General
- Min. Plen. Mr Andrea Tiriticco, Head of the Legal Department, Ministry of Foreign Affairs and International Cooperation of Italy

### 9.15 – 9.45      **Investing in Agriculture Responsibly through Contract Farming**

*Contextualizing contract farming against the global concerns regarding food security issues, small farmers' inclusion in value chains and policy orientations of each organization*

*Key speaker/Moderator:* Mr Idés de Willebois, Director, West and Central Africa Division, IFAD

- **Investing in Agriculture Responsibly**
  - Mr Jesper Karlsson, International Consultant, Trade and Markets Division, FAO
- **Contract Farming: an Overview**
  - Contract Farming: What is it About? Ms Marlo Rankin, Agribusiness Economist, Agricultural Development Economics Division, FAO
  - Experiences from the field – video testimonials

### 9.45 – 11.00      **Contract Farming: What is at Stake?**

*A review of experiences illustrating how to maximize benefits and minimize risks of contract farming from the perspective of economic, social and environmental development. Issues to be discussed would include the type of model that produces the best results, the crops most suitable for contract farming and the types of contract that are more relevant in different countries and circumstances*

*Moderator:* Mr Andrew Shepherd, Agribusiness Consultant

*Discussants*

- Mr Charles Ogang, President, Uganda National Farmers Federation, World Farmers' Organisation (WFO) Board Member
- Prof. Michele Pisante, Deputy Commissioner, Council for Agricultural Research and Economics (CREA) (Italy)
- Mr Michael Schlup, Partnerships Coordinator Cocoa Sustainability, Barry Callebaut & General Manager, Cocoa Horizons Foundation
- Mr Giel Ton, Senior Researcher, LEI, Wageningen University and Research Centre Nijmegen, the Netherlands - *leading a 3ie-funded systematic review on contract farming with Ghent University*

*Discussion*

### **11.00 – 11.30 Coffee break**

***International organisations, non-governmental organisations, bilateral cooperation agencies and partners supporting the Conference will be offered a space to illustrate their activities and display their publications***

### **11.30 – 12.30 A Legal Tool for Good Practices in Contract Farming Operations: the UNIDROIT/FAO/IFAD Legal Guide on Contract Farming**

*Key speaker/Moderator: Prof. Fabrizio Cafaggi, Italian School of National Administration, University of Trento (on leave) (Italy)*

- **Policy issues and legal approach of the Legal Guide**

*Linking the economic and social dynamics of the contract farming operation with the legal dimension. How a legal approach – regulatory and contractual – can make a difference, focusing on selected issues*

- **How to use the Legal Guide? Plans for implementation**

*A presentation of the author organisations' current plans to disseminate the Legal Guide and ensuring that it brings benefits to the intended users*

*Discussants*

- Ms Eva Galvez Nogales, Agribusiness Economist, Agricultural Development Economics Division, FAO
- Ms Marlo Rankin, Agribusiness Economist, Agricultural Development Economics Division, FAO
- Ms Marieclaire Colaiacomo, Procurement Officer, East and Southern Africa Division, IFAD
- Ms Frederique Mestre, Senior Officer, UNIDROIT

*Discussion*

### **12.45 Concluding Remarks**

- Mr José Angelo Estrella Faria, UNIDROIT Secretary-General

Contract farming, broadly understood as agricultural production and marketing carried out under a previous agreement between producers and their buyers, supports the production of a wide range of agricultural commodities and its use is growing in many countries.

Mindful of the importance of enhancing knowledge and awareness of the legal regime applicable to contract farming operations, the International Institute for the Unification of Private Law (UNIDROIT), the Food and Agriculture Organization of the United Nations (FAO) and the International Fund for Agricultural Development (IFAD) have prepared [the UNIDROIT/FAO/IFAD Legal Guide on Contract Farming](#).

The Guide is a useful tool and reference point for a broad range of users involved in contract farming practice, policy design, legal research and capacity-building. It can also contribute to the creation of a favourable, equitable and sustainable environment for contract farming.

This Conference aims to provide information on contract farming and explain the approach and practical usefulness of the Guide to potential stakeholders. It will likewise provide information on current plans regarding the implementation of the Guide in various countries. In particular, the three author organisations have established a [Community of Practice on Legal Aspects of Contract Farming \(CoP/LACF\)](#) within the framework of the *Global Forum on Law, Justice and Development (GFLJD)*.

The Conference is primarily directed to diplomatic representations in Italy who deal with UNIDROIT, FAO and IFAD on a regular basis, and are ideally placed to convey the corresponding information to stakeholders in their respective countries. International organisations, non-governmental organisations, and bilateral cooperation agencies involved in contract farming, are also invited to attend and actively participate in the discussions.

Simultaneous translation will be provided in English/French.

### **UNIDROIT acknowledges the support of**

- 3ie – the International Initiative for Impact Evaluation - <http://www.3ieimpact.org/>
- Barry Callebaut & Cocoa Horizons Foundation – <http://www.cocoa horizons.org/>
- *Consiglio per la ricerca in agricoltura e l'analisi dell'economia agraria* (CREA) – <http://sito.entecra.it>
- LUISS School of Law - LL.M. in Food Law - <http://isl.luiss.it/llm-food-law>

### **in the holding of the Conference**