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**Item No. 6 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 2017-2019</a> <i>(UNIDROIT 2016 – A.G. (75) 3 corr.) p. 15.</i>
<i>Priority level</i>	<i>For promotion activities: high</i>
<i>Related documents and Web resources</i>	<i>UNIDROIT /FAO/IFAD Legal Guide on Contract Farming</i> <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. Co-authored by UNIDROIT, the Food and Agriculture Organisation of the United Nations (FAO) and the International Fund for Agricultural Development (IFAD), the UNIDROIT/FAO/IFAD Legal Guide on Contract Farming was published in 2015 in English and French. As a comprehensive treatment of the major legal issues arising out of contract farming, the Guide is designed to raise awareness among all stakeholders regarding the legal aspects related to contract farming. It intends to serve as a “good practice” reference for parties engaged in contract farming operations. It will also serve as a reference for the development of public governance instruments to sustain agricultural development, and will provide an additional tool available to international organisations and bilateral cooperation agencies as well as nongovernmental organisations engaged in strategies and programs in support of contract farming in developing countries.

2. FAO and IFAD have launched a two-year plan to promote the use of the Guide in diverse contract farming contexts through the preparation of outreach materials, knowledge and implementation tools, to be used in local capacity building and development programmes. UNIDROIT, on its part, participates in the project as a member of the Advisory Board, as well as the leading partner in the development of a Community of Practice on Legal Aspects of Contract Farming, within the framework of the Global Forum on Law, Justice and Development (GFLJD). These two promotion programmes are briefly presented below.

## II. THE IFAD/FAO IMPLEMENTATION PROJECT

3. Mindful of the importance of making the Legal Guide readily useable by the intended beneficiaries in particular in the context of field programmes of international organisations and cooperation agencies investing in or otherwise supporting agricultural development through contract farming schemes, 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 rural populations in profitable and sustainable linkages to markets through contractual relations with farm product buyers. FAO is responsible for the execution of the programme, with the assistance of an Advisory Board formed by professionals from the major stakeholders of the project, including from IFAD, FAO and UNIDROIT.

4. 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. The related activities are summarised below:

(a) *Preparation of a Spanish version of the Legal Guide*, with a view to making it accessible to key stakeholders in Spanish-speaking countries, in particular in Latin America and the Caribbean. The Spanish version has been finalized and will be published electronically and hard copies printed;

(b) *Preparation of divulgation documents drawing from the Legal Guide* to be published in the first quarter of 2017: (i) *Legal aspects of contract farming agreements*: a synthesis of the Legal Guide, written in non-technical language (ii) *Brief on contract farming and the law: what do farmers need to know?* (iii) *Brief on contract farming and the law: what do regulators need to know?* (iv) *Guiding questions for contract analysis* and a *checklist for drafting agricultural contracts*;

(c) *Analysis of regulatory frameworks for contract farming*: To complement and enrich the scope of the Legal Guide, the document intends to analyse key regulatory trends internationally and provide guidance for governments looking to improve their enabling environment for contract farming. FAO has sought the assistance of UNIDROIT for the preparation of this legislative analysis which is to be completed at the end of 2017;

(d) *Developing contract templates*: FAO is collaborating with the International Institute for Sustainable Development (IISD) and IFAD to develop a generic contract template and two commodity-specific templates based on the recommendations of the Guide, addressed to development agents, policy makers, farmer organizations and others interested in contract farming issues. It is envisaged that the templates will be published online by the end of May 2017;

(e) *Capacity building: preparation and validation of training materials and workshops*: Three national workshops (in Vietnam, El Salvador and Rwanda) and three regional "training of trainers" workshops (in Latin America and the Caribbean, East and Southern Africa, and the Asia Pacific region) to be held between September 2016 and the third quarter of 2017, aim at strengthening the capacities for the adoption and dissemination of the principles set forth in Guide, intended for extension agents, development professionals, academics and other actors that have roles in capacity building activities on areas of relevance to contract farming promotion. Training materials will be made available through an open access e-learning platform, to be launched in the 3rd quarter 2017;

(f) Reformulation of the FAO “Contract Farming Resource Centre” website which provides free access to hundreds of samples of farming contracts from numerous countries, covering a wide range of agrifood products, as well as to a selected searchable database of CF publications;

(g) 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)).

### III. THE COMMUNITY OF PRACTICE ON LEGAL ASPECTS OF CONTRACT FARMING (COP/LACF)

5. As part of the IFAD/FAO Implementation Project, FAO and UNIDROIT have agreed that UNIDROIT will create “a *Community of Practice on Legal Aspects of Contract Farming (CoPL/CF)* linked to the *Global Forum on Law, Justice and Development (GFLJD)*, an online platform organized by the World Bank.<sup>1</sup> The CoPL/CF will work to promote a favourable legal environment for contract farming operations to support agricultural development.” Formalised under a Letter of Agreement signed on 13 April 2016, the agreement will terminate on 21 September 2017.

6. The activities contemplated under the Letter of Agreement broadly consist of knowledge sharing and dissemination, as well as research and promotion projects pursued by members. Key in this context is the divulgation and implementation of the UNIDROIT/FAO/IFAD Legal Guide on Contract Farming. The listed activities are: the establishment of a network of partners and members, representatives and counsels of the farming community and the private sector, academic legal circles and government entities; the launch of an Internet Website hosted by the UNIDROIT website with a dedicated page on the GFLJD platform as well; the promotion of divulgation events as well as academic and research activities related to the Legal Guide; the preparation of communication tools and strategy to support the activities of partner institutions.

7. The activities of the CoP/LACF until May 2016 were reported to the UNIDROIT Governing Council at its 95<sup>th</sup> session in Doc. C.D. (95) 7(a). Since then, the following activities have been carried out:

- The Internet platform of the CoP/LACF (<http://www.unidroit.org/community-of-practice/home>) serves as a repository of legal resources, offering access to a wealth of information and legal resources on contract farming and agricultural contracts. Dedicated pages cover Web and bibliographical references; Regulations; Good Practices & Standards. The information therein reported has been continuously updated and expanded.
- Special efforts have been made in building a network of stakeholders, and membership although modest, is growing (currently nearly fifty individual members).
- Efforts have also been deployed to encourage promotion projects in line with the objectives of the CoP. Activities and projects currently reported under the CoP/LACF are:

*International Organisations:* beside the activities of the CoP’s founders, i.e. UNIDROIT, IFAD and FAO, the World Bank Group - Enabling the Business of Agriculture, 2017 Report

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<sup>1</sup> The *Global Forum on Law, Justice and Development* is a World Bank initiative providing 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/>. 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/gfljd>).

*Country Projects:* - Brazil: translation of the Legal Guide into Portuguese and related research initiatives; Colloquium for the launch of the Portuguese version of the Legal Guide in Brazil in October 2017. Under the responsibility of a team of academics including Prof. Iacyr Aguiar Vieira and Regel Antônio Ferrazza (Universidade Federal de Viçosa), Judge Nunziata Stefania Paiva (Court of Justice – Comarca of Corumbáiba, Goiás), Prof. Kassia Watanabe (Universidade Federal do Recôncavo da Bahia).

- Chile: Academic research project: “Strengthening the legal framework for agricultural contracts in Chile and Latin-America” under the coordination of Prof. Alvaro Vidal Olivares, Facultad de Derecho de la Pontificia Universidad Católica de Valparaíso.

- People’s Republic of China: ongoing translation of the Legal Guide into Chinese, by Mr Philip Peng, DeHeng Law Offices

8. 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 30 April 2016, a consultant was contracted to support the Secretariat’s action, 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 through coordination by a Senior Legal Officer, secretariat and IT support as needed. The remainder of the IFAD/FAO funding is intended to support Unidroit’s participation to one of the current project of the CoP.

9. The UNIDROIT Secretariat intends to continue its efforts in developing the activities and projects of the CoP/LACF until 21 September 2017, when the agreement with FAO comes to an end.

10. Upon expiry of the agreement with FAO on 21 September 2017, the UNIDROIT Secretariat proposes to develop with FAO and IFAD a mutually agreeable formula which would enable the CoP to keep its identity and continue working toward its purposes, compatibly with the resources of the founders. As far as UNIDROIT is concerned, it may be reintegrated as part of the current promotion activities of the Secretariat in support of its adopted instruments, as far as the UNIDROIT/FAO/IFAD Legal Guide on Contract Farming in concerned.

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

11. Since the 95<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:

- On 5-7 June 2016, in Rome, at the 4th Mediterranean Conference of the International Bar Association on “Sustainable Agriculture and Food Security in the Mediterranean Region” within the session on “food self-sufficiency, distribution and agricultural commerce”, the Guide was presented by Ms Frederique Mestre, UNIDROIT Secretariat.

- On 18-23 September 2016 at the Annual Conference of the International Bar Association in Washington, within the International Sales Committee Session, the UNIDROIT Secretary-General made a presentation on “Contract Farming and the Food Value Chain”.

- On 30 January 2017 at the Conference held in Paris on « *Les Etats généraux de la recherche sur le Droit et la Justice* », organised *i.a.* by the French Ministry of Justice within the Roundtable on « *L’internationalisation de la recherche et de l’enseignement* » the UNIDROIT Secretary-General made a presentation on « *La recherche dans les organisations internationales : l’exemple du Guide juridique sur l’agriculture contractuelle UNIDROIT/FAO/FIDA* »

- On 15 February 2017, Ms Frederique Mestre, UNIDROIT Secretariat, made a presentation to the Students of the Master PROLAW 6 – Loyola University of Chicago, Rome Campus, on “Contract Farming and the UNIDROIT/FAO/IFAD Legal Guide on Contract Farming”.

- On 23-24 February 2017 the Secretariat provided legal expertise at a Senior Officials Meeting workshop held under the auspices of the Economic Committee of the Asia-Pacific Economic Cooperation (APEC) held in Vietnam. During the session on entitled “the Use of International

Instruments to Strengthen Contract Enforcement in Supply Chain Finance for Global Businesses”, Mr William Brydie-Watson, UNIDROIT Secretariat, made a presentation on the “Use of international instruments for MSMEs in Supply Chain Finance” focusing on the UNIDROIT Convention on International Factoring and on the UNIDROIT/FAO/IFAD Legal Guide on Contract Farming.

- On 28 March 2017, Ms Frederique Mestre, UNIDROIT Secretariat, made a Skype presentation to the Master on Global Development Law and Policy - University of Washington, on “Contract Farming: a win-win business model for farmers and buyers?”.

## **V. POSSIBLE OTHER WORK IN CONTRACT FARMING RELATING AREA**

### *Collaboration with FAO Legal Office for the preparation of a Legislative Study on Contract Farming*

12. As indicated in para. 4(c) of this document, as part of the IFAD funded project, FAO has engaged in an Analysis of regulatory frameworks for contract farming which is to be completed at the end of 2017. 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”. Seized by the Secretariat of this request at its 95<sup>th</sup> session, the UNIDROIT Governing Council encouraged the Secretariat to continue its collaboration with FAO and IFAD in this regard.

13. The UNIDROIT Secretariat has provided close collaboration to FAO Legal Office over the last months, regarding the structure and contents of the forthcoming study. However, substantial work is still needed before a decision can be made as regards the level of endorsement that UNIDROIT could possibly offer to this initiative. The Secretariat will provide updated information as may be available at the Governing Council session.

### *Supply chain financing and secured agricultural financing practices*

14. The Secretariat would like to refer to the interest expressed by the World Bank in its observations in the context of the preparation of the UNIDROIT Work Programme for the 2017-2019 triennium, 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”. Although no specific topic was eventually included in the Work Programme for the 2017-2019 triennium, the Secretariat suggests that informal exchanges with the Secretariat of interested organisations may take place to consider the possibility of drafting some kind of guidance document in this regard.

## **VI. Action to be taken**

15. *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 the interested organisations in this regard.*