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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>	<i><u>Work Programme 2017-2019</u> (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 <u>Contract Farming webpage</u> <u>Community of Practice on Legal Aspects of Contract Farming Webpage</u></i>
<i>Dissemination documents:</i>	<i><u>Leaflet</u>: <i>Creating a Favourable Legal Environment for Contract Farming</i> – <u>Brochure</u>: <i>UNIDROIT/FAO/IFAD Legal Guide on Contract Farming: an Overview</i></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. In the aftermath of the adoption of the Guide, FAO and IFAD launched a two-year plan (funded by IFAD and executed by FAO) 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, was included 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). The project ended in December 2017, and a brief report is presented below.

II. THE IFAD/FAO PROJECT FOR THE IMPLEMENTATION OF THE LEGAL GUIDE

3. Mindful of the importance of making the Legal Guide readily useable by the intended beneficiaries, IFAD delivered a grant to FAO for 2016-2017. The goal of this Project was 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 was 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 UNIDROIT.

4. The Project consisted of the following activities (outputs available at the time of writing of this paper are indicated by an asterisk (*))

(a) *Preparation of a Spanish version of the Legal Guide* (*) now available both electronically (on Unidroit website) and on hard copy;

(b) *Preparation of divulgation documents drawing from the Legal Guide* (i) *Legal aspects of contract farming agreements*: a synthesis of the Legal Guide, written in non-technical language: in English (*), French and Spanish (*) published under the joint authorship of FAO, UNIDROIT and IFAD (ii) *Brief on "Contract farming and the law: what do farmers need to know?"* in English (*), (iii) *Brief on contract farming and the law: what do regulators need to know?"* in English (*);

(c) *Analysis of regulatory frameworks for contract farming*: the document intends to provide guidance for governments looking to improve their enabling environment for contract farming. At FAO's request, UNIDROIT provided substantial assistance during the elaboration of the document;

(d) *Developing contract templates*: the International Institute for Sustainable Development (IISD) has been commissioned 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. UNIDROIT provided substantial comments on the draft.

(e) *Capacity building: preparation and validation of training materials and workshops*: National workshops and regional "training of trainers" workshops were held aiming 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 during 2018;

(f) Reformulation of the FAO "Contract Farming Resource Centre" website which provides free access to a large number 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). A report is presented below under III.

III. THE FORUM (FORMERLY “COMMUNITY OF PRACTICE”) ON LEGAL ASPECTS OF CONTRACT FARMING

5. As part of the IFAD/FAO Implementation Project, UNIDROIT created “a *Community of Practice on Legal Aspects of Contract Farming (CoPL/CF)* linked to the *Global Forum on Law, Justice and Development (GFLJD)* [...]”.¹ *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 expired on 30 November 2017.

6. Upon completion of the IFAD/FAO Implementation Project, the “Community of Practice” has been reshaped as a “Forum” as part of the Contract Farming area of Unidroit website. It is worth noting that a facilitated access to the Contract Farming area will be provided from the UNIDROIT website through thematic portals, one of which will be dedicated to the agriculture related topics, covering also the UNIDROIT work on agricultural land investment contracts and on the Protocol the MAC to the Cape Town Convention on International Interests in Mobile Equipment, on Matters specific to Agricultural, Construction and Mining Equipment (the “MAC Protocol”).

7. Except for the “Individual Membership” feature, which has been substituted by a more flexible participation modality, the Forum keeps the same objective of promoting a favourable legal environment for relationships between agricultural producers and commodity takers based on agricultural production contracts. Key in this context is the study, divulgation and implementation of the Legal Guide on Contract Farming.

8. The Forum webpage continues to serve as a repository of legal information relating to Internet and bibliographical references, legislative and regulatory instruments, soft law and good practices. It also reports on projects and activities pursued by interested institutions or individuals in relation with the Legal Guide (implementation initiatives such as legislative drafting, seminars, courses, research projects, translations etc.) or related topics (a.i. legal aspects of production and marketing contracts).

9. As regards projects and activities, it is particularly worth mentioning: the implementation tools and activities implemented by FAO; the current work of translation of the Legal Guide into Portuguese, and into Chinese; and the academic research project: “Strengthening the legal framework for agricultural contracts in Chile and Latin-America” lead by the Pontificia Universidad Católica de Valparaíso (Chile).

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

10. Since the 96th 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 10 October 2017, UNIDROIT was invited to participate in the session panel on “Agricultural supply chains in Southeast Asia: legal considerations from ‘farm to the fork’” in the framework of the Annual IBA Conference in Sydney (9-13 October). Ms Frederique Mestre, Senior Legal Officer, discussed ‘Developments of contract farming in South Eastern Asia’ focusing on good practices in contract farming to support sustainable economic and social development;

- on 2 and 3 November 2017, the 9th Transnational Commercial Law Teachers’ Meeting took place at Radboud University in Nijmegen. On this occasion, the Secretary-General *a.i.*, Professor Anna Veneziano, was a moderator on a panel concerning UNIDROIT’s work on Contract Farming and

¹ 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 organisations, international financial institutions, and civil society organizations with relevant research and practice. See: <http://www.globalforumljd.org/>.

Land Investment Contracts, which involved a presentation by Professor Henry Gabriel (Elon School of Law and UNIDROIT Governing Council Member);

- on 6 November 2017, the Ministry of Foreign Affairs and the Ministry of Agriculture of Indonesia organised an International Workshop in Jakarta entitled "Improving Small Scale Farmers' Welfare". UNIDROIT was represented by Professor Anna Veneziano, Secretary-General *a.i.*, and by Ms Frederique Mestre, who delivered presentations on the Legal Guide on contract farming as an expanding business model, and on the Government's Role in Contract Farming. Nearly 70 people participated in the Workshop, including farmer organisations' representatives, civil society participants interested in business models linking farmers to the market, as well as legal and economical academics and government officials;

- on 15 February 2018, the UNIDROIT Secretary-General *a.i.* was invited to deliver a Keynote Lecture at the 5th International Conference on Legal Institution Design on "Land Grabbing and Development", hosted and organised by Nagoya University. Professor Veneziano delivered a lecture on "UNIDROIT's work on sustainable development: the UNIDROIT/FAO/IFAD Guide on contract farming and the project on agricultural land investment contracts".

VI. ACTION TO BE TAKEN

11. *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.*