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GOVERNING COUNCIL
98th session
Rome, 8-10 May 2019

UNIDROIT 2019
C.D. (98) 5 (b)
Original: English
March 2018

Item No. 5 on the agenda: Private Law and Agricultural Development

**(b) 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>Forum on Legal Aspects of Contract Farming Webpage</u></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, the three author institutions engaged in implementation programmes based on their respective institutional mandates and skills to maximize the impact of Guide.

II. IFAD/FAO IMPLEMENTATION OF THE LEGAL GUIDE

3. Under a two-year (2016-2017) plan funded by IFAD, the programme aimed to operationalise the Guide in diverse contract farming contexts through the preparation of outreach materials, knowledge and implementation tools, to be used in capacity building and development programmes in countries. 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 which provided substantial inputs.

The programme consisted of the following activities and outputs:¹

- (a) Preparation of a Spanish version of the Legal Guide
- (b) Preparation of divulgation documents drawing from the Legal Guide: (i) a synthesis of the Legal Guide written in non-technical language (ii) Briefs on “Contract farming and the law: what do farmers need to know?” and “Contract farming and the law: what do regulators need to know?”
- (c) Analysis of regulatory frameworks for contract farming;²
- (d) Model Agreement for Responsible Contract Farming: a generic contract template and two commodity-specific templates (tomatoes and coffee) developed by the International Institute for Sustainable Development (IISD);³
- (e) Training materials and capacity building regional and country workshops;
- (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) - presented below under III.

III. UNIDROIT IMPLEMENTATION OF THE LEGAL GUIDE

4. As part of the IFAD/FAO Implementation Programme, 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) [...]*”⁴ Upon completion of the IFAD/FAO Programme, the “Community of Practice” has been reshaped as a “Forum” as part of the Contract Farming area of UNIDROIT website: <https://www.unidroit.org/community-of-practice/projects-and-activities>

5. The Forum has the 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.

6. The Forum has two main features: one is the function of the webpage as repository of information on legal resources: Internet and bibliographical references, legislative and regulatory instruments, soft law and good practices. The second is to report 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).

¹ All documents as well as other useful resources are available on the FAO “Contract Farming Resource Centre” website <http://www.fao.org/in-action/contract-farming/en/>

² Viinikainen, T and Bullón Caro, C (2018) Enabling Regulatory Frameworks for Contract Farming. FAO, Rome. Accessible at: <http://www.fao.org/3/I8595EN/i8595en.pdf>

³ Accessible at: <https://www.iisd.org/project/model-agreement-responsible-contract-farming>

⁴ 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/>.

7. As regards projects, activities and outcomes, it is particularly worth mentioning:

- In Brazil: the publication of the Legal Guide into Portuguese (October 2018) – ISBN 978-85-7269-604-3 - translated by Prof. Dr Iacyr de Aguiar Vieira (University of Viçosa), Prof. Dr Kassia Watanabe (Universidade Federal do Recôncavo da Bahia), Dr Nunziata Stefania Valenza Paiva (Justice of Goiás Court of Justice) and Prof. Dr. Regel Antonio Ferrazza (University of Viçosa) - presented at a Colloquium organised by the Faculty of Administration of the University of São Paulo and UNIDROIT, on 18 October 2018 (see below);
- In China (PR) the publication of the Legal Guide into Chinese (Mandarin) (forthcoming March 2019) – translated by Dr. Philip Peng (DeHeng Law Firm) with plans for the preparation of implementation documents;
- In Chile, 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) financed by FONDECYT, with the reprint of the Spanish version of the Legal Guide by Ediciones Universitarias de Valparaíso, 2018, and the Colloquium held at the Faculty of Law of Pontificia Universidad Católica de Valparaíso - PUCV, on 25 October 2018 (see below);
- A global initiative to be implemented by academic partners, the UNIDROIT Secretariat is preparing guidelines for the drafting of country legal guides on contract farming, aiming to provide a thorough analysis of the legal rules applicable to contract farming relationships, by translating into the domestic context, the general guidance provided in UNIDROIT/FAO/IFAD Legal Guide on Contract Farming. Country legal guides will in turn be instrumental for the preparation of implementation documents tailored to the specific legal and institutional context.

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

8. Since the 97th 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 27 July 2018, Secretary-General *a.i.* Professor Anna Veneziano delivered a lecture on “UNIDROIT’s work on sustainable development – the UNIDROIT-FAO-IFAD Legal Guide on Contract Farming” at Hokkaido University in Sapporo, at a seminar hosted by Professor Hiroo Sono. The lecture was followed by a discussion with faculty members and graduate students;
- On 9 October 2018, Ms Frederique Mestre, UNIDROIT Secretariat, participated in the IBA Annual Conference all-fora session on “The Future of Food: a Global Issue for Humanity” designed to debate the multifaceted nature of food security, resources, quality, transportation and production. Ms Mestre’s presentation focused on the role of quasi-vertical integration contracts in agricultural production. The session was moderated by Ms M. Weimann (Gomez-Acebo & Pombo, Madrid, Spain);
- On 18 October 2018, Ms Frédérique Mestre, UNIDROIT Secretariat, participated in a Colloquium on “*The Legal, Economic and Social Implications of Contract Farming*” co-organised by the Faculty of Administration of the University of São Paulo and UNIDROIT, to celebrate the launch of the Portuguese version of the Legal Guide, where she made a presentation on “UNIDROIT’s perspective on the Legal Guide on Contract Farming”; The Colloquium was opened by Prof. Dr. D. Zylbersztajn and Prof. Dr. Moacir de Miranda Oliveira (University of São Paulo) and Prof. Dr Kassia Watanabe (Universidade Federal do Recôncavo da Bahia), with presentations by Prof. Dr. C.A. Barbosa da Silva, Prof. I. de Aguiar Vieira and Dra. N. Valenza Paiva.
- On 25 October 2018, Ms Frédérique Mestre, UNIDROIT Secretariat, participated in an International Colloquium organised by the Faculty of Law of Pontificia Universidad Católica de Valparaíso - PUCV, Chile, on “The agricultural contract: experiences and developments under Latin-American law and Uniform Law”, where she delivered the opening lecture on “Toward a Regulatory Model for Contract Farming: the Work of UNIDROIT”. With Panel 1 on “Contract Farming in Latin-America: Argentina and Brazil” (Prof. R. Momberg Uribe (*moderator*), Prof. M.A. Victoria, Prof. N. L. Malanos, Dr.

N. Valenza Paiva, Prof. I. de Aguilar Vieira and Prof. K. Watanabe); Panel 2 on "The Agricultural Contract in Chile: a Pending Challenge" (Prof. N. L. Malanos (*moderator*), Prof. A. Vidal Olivares, Prof. R. Momberg Uribe, Prof. J. Alcalde, Dr. M. Araya and Dr S. Norris).

- On 20 February 2019, UNIDROIT Deputy Secretary-General Professor Anna Veneziano presented the Legal Guide on Contract Farming, its main features and key aspects of its implementation at the Food for Law Conference hosted by McGill University in Montreal and its Centre for Intellectual Property Policy (CIPP). This presentation was part of a panel moderated by P.E. Moyses (Director of the CIPP and Associate Professor, McGill University), which discussed the practice of contract farming and its implications for rural development. The other panelists were M. Cloutier (Professor, Département de management et technologie, l'ESG UQAM), Matteo Ferrari (Assistant Professor of Private Law, University of Trento) and P. Iamiceli (Professor of Private Law at University of Trento).

- On 28 February 2019, Ms Frederique Mestre, UNIDROIT Secretariat, made a presentation on "International Regulatory Models for Contract Farming" at a Workshop on "*Agricultura por contrato – Aspectos legales y regulatorios, ordenamiento productivo, instrumentos financieros*" – in Bogota, Colombia, organised by the Colombian Ministry for Agriculture and Rural Development (MADR), the European Union (First Programme) and FAO Colombia, intended to pave the way to a priority programme launched by the Government at the end of 2018 to promote contract farming as a tool for rural development.

- On 6 April 2019, Ms Frederique Mestre, UNIDROIT Secretariat, was invited to deliver a lecture in the 3th Edition of the Master of Law (LL.M.) in Food Law, at LUISS School of Law in Rome, on contract farming.

VI. ACTION TO BE TAKEN

9. *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.*