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**UNIDROIT Working Group on Collaborative
Legal Structures for Agricultural Enterprises**

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SECRETARIAT'S REPORT

1. The International Institute for the Unification of Private Law (hereinafter "UNIDROIT" or "the Institute"), in collaboration with the Food and Agriculture Organization of the United Nations (FAO) and the International Fund for Agricultural Development (IFAD), have undertaken a joint project to develop an international legal guide on [Collaborative Legal Structures for Agricultural Enterprises](#) (hereinafter "CLSAE", "the Project", or "the future instrument").
2. This report provides an update on the work carried out by the Working Group and the four Subgroups. The update is based primarily on the outcomes and developments after the sixth session of the Working Group held on 20-22 November 2024 (see the Summary Report: [Study LXXXC – W.G. 6 – Doc. 7](#)) and the intersessional work undertaken between January and March 2025.
3. The report is accompanied by additional documents, which were sent separately to the members and observers of the Working Group and which will be the main object of discussion at the seventh Working Group session.
 - Draft Discussion Paper on Companies;
 - Draft Discussion Paper on Cooperatives;
 - Draft Discussion Paper on Multiparty Contracts;
 - Draft Discussion Paper on Digital Platforms; and
 - Draft Master Copy, outlining proposed structure of the future instrument and containing Draft Introduction, Draft Glossary, Draft outline of Chapter on comparing and combining the collaborative legal structures.
4. Each of the above-mentioned documents contain a description of issues and questions to guide the discussion of the Working Group during the seventh session.

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I. PRELIMINARY MATTERS

A. Background of the Project

5. The development of the UNIDROIT/FAO/IFAD Project on “Collaborative Legal Structures for Agricultural Enterprises” began during the 2020-2022 UNIDROIT Work Programme, initially with a medium-priority level,¹ and was elevated to the high-priority level for the 2023-2025 Work Programme by the UNIDROIT Governing Council² and General Assembly.³ The CLSAE Project is the third project undertaken in partnership with FAO and IFAD in the field of private law and agricultural development. It is a follow-up from the [Legal Guide on Contract Farming](#) (finalised in 2015) and the [Legal Guide on Agricultural Land Investment Contracts](#) (finalised in 2021).

6. UNIDROIT’s work in the field of Private Law and Agricultural Development began in 2009 when the Governing Council and General Assembly agreed that UNIDROIT’s broad mandate gave the Institute a wide range of opportunities to contribute to the Sustainable Development Goals (SDGs) and to create new synergies with other Rome-based intergovernmental organisations, in particular those focusing on agricultural development.⁴

7. In 2011, the UNIDROIT Secretariat organised a Colloquium on “Promoting Investment in Agricultural Production: Private Law Aspects” (Rome, 8-10 November 2011). The Colloquium focused on the following potential areas of work: (a) title to land, (b) contracts for investment in agricultural land, (c) legal structure of agricultural enterprises, (d) contract farming, and (e) the financing of agriculture.⁵ The tripartite partnership between UNIDROIT, FAO, and IFAD was established after the above-mentioned Colloquium.

8. As a first step for the development of the CLSAE Project, the UNIDROIT Secretariat analysed the existing international initiatives to avoid overlap and duplication of previous efforts.⁶ A feasibility study⁷ was prepared for the 99th session of the Governing Council (23-25 September 2020), suggesting that the CLSAE Project could investigate and make recommendations on how smallholders and agricultural Micro, Small, and Medium-sized Enterprises (agri-MSMEs) can: (i) improve market access; (ii) improve forms of aggregation and coordination of agricultural enterprises through the use of contractual networks, the development of corporate governance rules and the delineation of ownership; (iii) ease access to critical resources and insurance through investment vehicles and (iv) address unfair commercial practices and cases of abuse of power or dominant position through the existing dispute settlement mechanism and other remedies so as to obtain more responsible business conduct.⁸

9. The Governing Council authorised the Secretariat to continue its consultations to identify the main legal issues in which UNIDROIT, in cooperation with FAO and IFAD, could make a meaningful contribution. Accordingly, on 15 and 16 April 2021, a Consultation Webinar was co-organised to

¹ [UNIDROIT 2019 – C.D. \(98\) 14 rev.2](#), paras. 78-82 and [UNIDROIT 2019 – A.G. \(78\) 12](#), para. 51.

² [UNIDROIT 2022 – C.D. \(101\) 21](#).

³ [UNIDROIT 2022 – A.G. \(81\) 9](#).

⁴ [UNIDROIT 2009 – C.D. \(88\) 17](#), para. 88 and [UNIDROIT 2009 – C.D. \(88\) 7. Add.6](#).

⁵ The Acts of the Colloquium were published in the [Uniform Law Review](#), Oxford University Press, Volume 17, Issue 1-2 (2012).

⁶ For more information on the relationship between the CLSAE Project and other international initiatives, as well as a description of international instruments that should be taken into account by the Working Group when developing the guidance document see section E of the [Issues Paper](#) prepared for the first Working Group session, paras. 24-31.

⁷ [UNIDROIT 2020 – C.D. \(99\) B.5](#).

⁸ Committee on World Food Security (CFS), [Principles for Responsible Investment in Agriculture and Food Systems](#) (2014), paras. 50-52.

discuss the CLSAE Project and, notably, to outline the possible topics to be addressed in the prospective guidance instrument.⁹

10. The conclusions and recommendations of the Consultation Webinar were presented to the Governing Council at its 100th session (22-24 September 2021), which endorsed the CLSAE Project and upgraded its priority to high.¹⁰ At its 101st session (8-10 June 2022), the Governing Council was informed by the Secretariat that a Working Group had been established to carry out the Project. The Project was extended to the 2023-2025 UNIDROIT Work Programme with high priority.

B. Organisation of the work

1. Composition of the Working Group

11. Consistent with UNIDROIT's established working methods, the Secretariat set up a Working Group composed of experts selected for their expertise in the fields of contract law, corporate law, commercial law, property law, agricultural law, digital technology, and sustainability. Non-legal experts, such as economists, have also been invited to participate in the Working Group. Experts participate in a personal capacity and represent the world's different legal systems and geographic regions.

12. The Working Group also includes representatives of the legal departments of FAO and IFAD, as well as technical experts from other departments, such as FAO's "Agrifood Economics Division" and "Food Systems and Food Safety Division" and IFAD's "Results and Impact Assessment (RIA) Division" and the "Sustainable Production, Markets and Institutions (PMI) Division." Moreover, a number of international and regional intergovernmental organisations, farmers associations, non-governmental organisations, academic institutions, and private sector representatives have also been invited to participate as observers in the Working Group. It is expected that, in addition to contributing to the discussions of the Working Group, the participation of these stakeholders will assist in the promotion, dissemination, and implementation of any international instrument that is ultimately developed and adopted.

13. Furthermore, within the framework of a Chair Programme in the field of private law and sustainable agricultural development supported by the Directorate General for Development Cooperation (*Direzione Generale per la Cooperazione allo Sviluppo* - DGCS) of the Italian Ministry of Foreign Affairs and International Cooperation (*Ministero degli Affari Esteri e della Cooperazione Internazionale* - MAECI), a senior researcher and a senior legal consultant joined the UNIDROIT Secretariat to assist with the development of the CLSAE Project.

14. The Working Group is chaired by UNIDROIT Governing Council Member Professor Maria Ignacia Vial Undurraga (Chile) and coordinated by Professor Fabrizio Cafaggi (Judge at the Council of State of Italy and Professor at the University of Trento and LUISS, Rome). The list of members and observers of the Working Group is available at the CLSAE Project's dedicated [website](#).¹¹

2. Methodology and timeline of the Project

15. The CLSAE Working Group undertakes its work in an open, inclusive, and collaborative manner. As consistent with UNIDROIT's practice, the Working Group has not adopted any formal rules

⁹ The [Summary Report](#) is available on UNIDROIT's website and a [video](#) recording of both days of the Consultation Webinar is available on UNIDROIT's YouTube channel.

¹⁰ [UNIDROIT 2021 – C.D. \(100\) B.24](#), para. 80.

¹¹ The Secretariat notes that the composition of the Working Group is an open process and additional members and observers may be added as needed.

of procedure and seeks to make decisions through consensus. Working Group meetings are held in English without translation.

16. The Working Group meets twice a year for two or three days in Rome, Italy, at the premises of UNIDROIT. Remote participation is possible, although experts are expected to attend in-person if circumstances permit.

17. The documents for the Working Group meetings are distributed in advance of each session. After each meeting, the UNIDROIT Secretariat prepares a report with a summary of the discussion for publication on the UNIDROIT website.

18. It is expected that the preparation of the CLSAE Guide will require eight (if needed nine) Working Group sessions, followed by a period of consultations before the complete draft is submitted for adoption by UNIDROIT, FAO, and IFAD in 2026.

C. Working Group sessions and intersessional work

19. This section describes the main topics discussed and recommendations made during the sixth session of the Working Group. For more information on the work undertaken in the previous Working Group sessions and intersessional periods, see the previous Secretariat Reports and Summary Reports of Working Group available on the [CLSAE Project's dedicated website](#).

1. Sixth Working Group Session (20 – 22 November 2024)

20. The sixth session of the Working Group was held from 20 through 22 November 2024 and was attended, remotely or in person, by 37 participants. The session began with an update on intersessional work since the fifth session. The Working Group considered the progress made in the Draft Discussion Papers prepared by the Subgroups and discussed the ongoing development of the future instrument.

21. The first major topic discussed was the Draft Discussion Paper by the **Subgroup on Companies**. The UNIDROIT Secretary General observed that an individual could enter into a collaboration in a number of different forms, including as a natural person, sole proprietor or single-member entity, but that these did not constitute a collaborative form. Notwithstanding this conundrum, the majority of businesses in the world could not be left out of the CLSAE Project. It was suggested that this could be most logically explained in the companies paper.

22. It was agreed that the paper should reflect the idea that while companies were primarily profit-oriented entities, they could also accommodate broader sustainability goals and collaborative purposes; while acknowledging the historical origins that shaped the company form to attract capital, its evolution was a work in progress. The paper could be further enriched with additional examples of companies designed specifically for agricultural activities, including those contained in the Annex, and analysis of specific agri-forms of companies would provide more granular guidance. It was also emphasised that although many people intuitively understood that limited liability facilitated the raising of equity capital from investors, it was not as obvious that incorporation also increased access to credit and this concept had to be conveyed as simply as possible.

23. The Subgroup was requested to provide additional clarification on the differences between partnership forms in common and civil law systems and confirmation that legal persons would be encompassed. Taking note that in some jurisdictions it might not be possible to choose a multiparty contract without it being considered a partnership, the Subgroup was requested to provide examples to illustrate core issues where rules were mandatory and could not be excluded by contract.

24. The UNIDROIT Secretary-General suggested that the paper include an overview of the minority shareholder protections found in most legal systems and suggested that the concept of corporate or social interest doctrine in European corporate law might be considered in relation to fiduciary duties. With reference to voting trusts and pooling agreements, the Subgroup was asked to clarify the remedies and enforcement in the breach of such agreements with illustrative examples to differentiate these two alternatives. It was noted that shareholders' agreements could offer useful protection, especially in situations where the farmer might be the minority shareholder and a larger entity held control, despite the lack of balance in ownership and bargaining power, an important argument in support of shareholders' agreement that could be stressed.

25. The Subgroup was encouraged to develop the sections on dispute resolution, transfer of rights, exit & withdrawal. The UNIDROIT Secretary-General suggested that the paper include some guidance as to how the type of company might influence transfer and exit for purposes of the comparison and to assist in the choice among the different company types or other collaborative legal structures.

26. The representative from FAO pointed out that in many developing countries, farmers would not consider forming a company because of the complexity involved and suggested that the CLSAE Guide recommend simplification for a more accessible and affordable process. Others pointed out that while simplification was a valid objective, not only upon formation but throughout an entity's lifecycle, precautions were also needed to ensure legitimacy.

27. The Working Group noted that as there were two distinct interpretations of asset partitioning, a brief explanation of the alternative should also be included. It was suggested that the CLSAE Guide might explain that, by default, whatever assets were contributed would become the property of the company and that if the objective was to protect and preserve rights over certain assets, a contractual arrangement might be the preferred choice. Another consideration was whether the domestic law allowed in-kind contributions in exchange for shares and valuation of such contributions.

28. The **Subgroup on Multiparty Contracts** presented the advancements that had been made on the discussion paper, specifically on asset allocation related to liability regimes in multiparty contracts (MPCs) in agriculture. The paper addressed questions of whether MPCs allowed the sharing of material and non-tangible resources for collaboration and which options were available; how parties to an MPC could ensure that shared assets would be used for the common purposes without being easily reappropriated and redirected by the parties and seized by their personal creditors; to what extent MPCs could limit parties' liability for obligations inherent to their collaboration within the limit of shared resources (i.e., the common fund); and to what extent the choice of a scheme that allowed for limited liability facilitated access to credit. The Working Group suggested that, to better illustrate the distinction between multiparty and bilateral contracts, brief reference could be made to the Legal Guide on Contract Farming and the characteristics of contract farming as a paradigm bilateral agreement between a producer and a buyer. It was also suggested that consideration be given to recommend that, given their complexity, it was preferable that multiparty contracts be in written form.

29. The discussion of the Draft Discussion Paper by the **Subgroup on Cooperatives** focused on several key areas. It was suggested that the definition of an agricultural cooperative be refined and that the paper include a description of the governance organs, such as the General Assembly and Board. It was also suggested that the explanation of democratic governance be expanded and that a distinction between internal governance rules and external regulatory requirements be further elaborated. It was pointed out that the functions of primary, secondary and tertiary cooperatives required clarification and to do so perhaps these terms could be defined.

30. The Working Group discussed the concept of cooperative ecosystems and it was proposed that the paper emphasise how these ecosystems drive collective action and resource optimisation, particularly in addressing the financial needs of smaller members. Pointing to the trend wherein cooperatives have established joint-stock companies to overcome operational or legal barriers, especially in international trade, it was suggested that this be considered in conjunction with the resulting tensions between cooperative principles and corporate ownership.

31. It was acknowledged that both internal and external financing had yet to be addressed. In that regard, the Working Group suggested the paper consider, in addition to member contributions, the role of capital formation through transactions that generate surplus, the primary way a cooperative formed capital. It was also suggested that the Subgroup further explore how reserves strengthen cooperatives and their role in promoting intergenerational longevity and sustainable development.

32. The Working Group suggested that the paper distinguish different types of breaches, re-group and clarify termination and dissolution. While the paper touched upon these issues, it was pointed out that the sanctions applicable to members who violated such rules could be clarified further. It was also suggested to revisit the grouping of termination of membership and cooperative dissolution, as these were distinct concepts.

33. It was pointed out that digital tools could enhance governance by improving transparency and streamlining democratic processes. A suggestion was made that the Subgroup might wish to consider this and also the role of digitalisation in enhancing market opportunities for cooperatives.

34. The UNIDROIT Secretary-General emphasised the importance of a comparative approach in identifying best practices for cooperatives, noting that the project should incorporate key elements of cooperative typologies even if they were not explicitly part of the international definition. He encouraged the Subgroup to highlight essential aspects that reflected the core characteristics of cooperatives across jurisdictions.

35. The **Subgroup on Digital Platforms** was encouraged to emphasize the purpose and function of digital platforms specifically in agriculture, to do so earlier in the paper, and to include more examples from the sector. It was suggested the paper include a taxonomy of agricultural digital platforms, such as marketplaces, financial services, training, or equipment-sharing, and then explore whether these platforms used cooperative, company, or contractual structures, or whether new legal infrastructures were emerging. This would help connect the functional and legal aspects, distinguishing between the platform's operational purpose and its structural legal framework.

36. It was recommended that the Subgroup improve the structure of the paper to make it easier to understand and navigate. The paper should provide clarity on the different types of contracts through which farmers could engage with these platforms and how they could be used; consider platforms governed by third parties and how different countries regulated their obligations, (e.g., on data collection and transparency); and, reflect on how digital platforms interacted with the rules governing food imports and exports. It was also suggested that the chapter include a dedicated section explaining blockchain contracts and their potential applications and that the section on dispute resolution be expanded.

37. It was agreed that digital platforms should not be presented as a fourth collaborative legal structure, as it was more of a functional concept than a formal one. Accordingly, it was suggested that the paper should provide clear indications of the specific challenges associated with digital tools in collaborative mechanisms and potential legal solutions at the national and international levels.

38. The Coordinator of the Working Group had suggested that one of the cross-cutting questions to be addressed by all of the Subgroups was the extent to which different resources had to be

differently protected. It was also suggested that the CLSAE Project should focus on issues not only in developed countries, but also those in developing countries.

39. Regarding sustainability, it was agreed that its direct connection to collaboration would be explained in the Introduction to the CLSAE Guide and that each of the chapters on the different legal forms would illustrate how these can affect or foster sustainability, all of which would be taken into account in the comparative chapter. Within each chapter, it was suggested that this could most effectively be considered in the sections regarding purpose, governance, and in relation to post-contractual obligations.

40. Regarding access to credit, it was explained that the intention was to examine to what extent the choice of legal form could influence access to credit. It was suggested that the three-way correlation between credit, digitalisation and sustainability be kept in mind across all chapters. It was also noted that it might be necessary to differentiate between private and public financing, such as multilateral institutions and national schemes that support agricultural development, and that perhaps another consideration would be differences in the size of borrowers, as this impacted the type of mechanism that would be available.

41. Towards the end of the session, the Working Group reviewed the preliminary draft structure of the CLSAE Guide and draft Glossary. Suggestions were made for further refinement and clarification was suggested for a number of terms.

42. For more information, reference is made to the Summary Report of the Working Group's sixth session ([Study LXXXC – W.G.6 – Doc. 7](#)).

2. Intersessional work (January - March 2025)

43. Pursuant to the mandate received at the sixth session of the Working Group, the Secretariat continued to provide support to the Working Group for the organisation of intersessional meetings to advance the understanding of certain issues and for the preparation of draft discussion papers. All four subgroups were able to progress on their respective discussion papers and continued to contribute to the overall development of the CLSAE Guide.

44. The **Subgroup on Companies** addressed several key issues raised during the previous session. An explanation was included that although an individual (natural person or sole proprietor) did not constitute a collaborative form, as the majority of businesses in the world could not be excluded, this business form was subsumed in the Companies Chapter. The historical origins that had led to the corporate form were elaborated upon and the notion that while companies were primarily profit-oriented entities, they could also accommodate broader sustainability goals. Clarifications were made on the meaning of asset partitioning, differences between partnership forms in civil and common law systems, differences between voting trust and pooling agreements in the event of breach and in-kind contributions. Consideration of minority shareholder protection was added, the section on transfer of rights, exit and withdrawal was overhauled and a new section on dispute resolution was developed.

45. The **Subgroup on Multiparty Contracts** advanced its work on discussion paper including additional references to the UNIDROIT/FAO/IFAD Legal Guide on Contract Farming to further differentiate multiparty and bilateral contracts for collaboration. The formation process of a multiparty contract was further explained with the addition of clear recommendations on the use of written forms of multiparty contracts. The topic on collective ownership was also clarified to better describe how resources could be shared to perform the contract.

46. The **Subgroup on Cooperatives** reorganised the structure of the paper and considered aspects that had been suggested for further analysis. The definition of an agricultural cooperative

was refined, description of the governance organs was included, democratic governance was further explained, internal governance rules and external regulatory requirements were further elaborated, and the functions of primary, secondary and tertiary cooperatives were clarified. Cooperative ecosystems and their importance for resource optimization were explained. A description of internal and external financing was developed, which elaborated on member contributions, capital formation through transactions, and the unique aspects of reserves in strengthening the resilience of cooperatives. Different types of breaches were further explained, including possible sanctions, and sections on termination of membership and cooperative dissolution were also revised.

47. The **Subgroup on Digital Platforms** explained the importance, purpose and function of digital platforms in the agricultural sector and included more examples throughout the paper. A taxonomy of agricultural digital platforms was developed, which included marketplaces, financial services, training, and equipment-sharing, among others and the paper was further developed to explore the functional and legal aspects, and distinctions between the platform's operational purpose and its structural legal framework. The structure of the chapter was revised with a focus on explaining digital platforms and how they could be used by farmers. The chapter now also considers platforms governed by third parties and how different countries regulate certain obligations, such as those on data collection and transparency. The section on dispute resolution was expanded and the paper also addressed specific challenges associated with digital tools in collaboration.

48. As had been suggested during the previous session, the Secretariat organised an informal online discussion to generate ideas for advancing the work for the chapter on "Comparing and combining collaborative legal structures", which was held on 28 February 2025. To assist with that discussion, the Secretariat had prepared background materials that included a list of discussion points, three tables that compared the collaborative legal structures on the basis of i) function; ii) needs; and, iii) similarities and differences. An informal summary of the discussion was distributed to the Working Group.

49. On the basis of the draft Structure of the Instrument that had been discussed during previous sessions, the Secretariat developed a draft Master Copy of the CLSAE Guide and advanced work on the content therein, namely, the Introduction, Glossary and Comparative Chapter. The Secretariat also continued to support the work of the four Subgroups and made efforts to ensure consistency across the discussion papers, where possible, such as in the definition and use of "contract" and the concept of multi-party contracts.

3. Next sessions of the Working Group and intersessional work

50. The Secretariat suggests that at least one more Working Group session be held in 2025. For the moment, it is proposed that the eighth session of the Working Group take place on either October 15 - 17 or October 22 - 24, 2025.

51. The continuation of the intersessional work is also highly encouraged. For the next intersessional period, the Secretariat suggests: (i) retaining the four Subgroups on Cooperatives, Multiparty Contracts, Companies and Digital Platforms; (ii) organising virtual intersessional meetings of the Drafting Committee to prepare the next draft "Master Copy" of the instrument based on the Secretariat's draft and discussions of that initial draft by the Working Group during the current session; and (iii) organising virtual intersessional meetings on specific issues, if needed.

Questions for discussion

- Does the Working Group agree with the proposed approach for the next intersessional period?
- The Working Group is invited to take note of the dates proposed for the eighth Working Group session (scheduled for October 15 - 17 or October 22 - 24, 2025).

II. GENERAL MATTERS CONCERNING THE GUIDANCE INSTRUMENT

52. The general matters related to the scope of the future Guide have been extensively discussed by the Working Group in previous meetings. For a detailed description of the: (i) purpose of the Project; (ii) target audience; (iii) format and title; as well as (iv) the methodology proposed, please see the previous Secretariat Reports and Summary Reports of Working Group available on the [CLSAE Project's dedicated website](#).

III. CONTENT OF THE GUIDANCE INSTRUMENT

53. The Working Group is invited to consider the topics and questions proposed in the Draft Discussion Papers on Multiparty Contracts, Companies, Cooperatives and Digital Platforms, and the Draft Master Copy, all of which were sent separately to the Working Group members and observers.