Comments submitted by the *ad hoc* group of experts on Contract Farming of the Fondation pour le droit continental, submitted for the Unidroit meeting of November 2014

Comments on the Future UNIDROIT/FAO Legal Guide on Contract Farming - Zero Draft of the Legal Guide on Contract Farming

UNIDROIT has invited all interested stakeholders to submit comments on the Zero Draft of the Legal Guide on Contract Farming. These Comments are submitted by the Fondation pour le droit continental as the basis for discussion on the Zero Draft during the Consultation process. These Comments were sent to Unidroit on November 5, 2104.
They include an introduction, 2 parts on the Zero draft (general and specific remarks) and a third part on a specific issue.

INTRODUCTION

Presentation of the Fondation pour le droit continental/ Civil law initiative

1.- The Fondation pour le droit continental, Civil law initiative, has its headquarters in Paris.
The Foundation has an international dimension, which is illustrated by the composition of its main organs. There are 36 nationalities represented within its scientific council and among its corresponding members. Academics, legal professionals, judges, corporate lawyers, and businessmen are brought together at the Foundation to develop actions together. Actions are jointly organized by several countries or organizations. The Board of Directors already has several foreign European members. The Fondation, which aims at promoting the civil law tradition in a pluralistic legal environment, has structured its action programs in 6 areas of development:

1. Develop partnerships and networks
2.Train and disseminate knowledge (summer school of the Fondation)

3.Develop applied research in economic sector law
4.Provide legal expertise internationally
5.Maintain an international presence
6.Publish, translate, and communicate on behalf of continental law

The Foundation's areas of intervention are very broad, both regarding the areas of application as well as the international geographic areas.

The UNIDROIT/FAO Legal Guide on Contract Farming

2.- The forthcoming UNIDROIT/FAO Legal Guide on Contract Farming is being prepared by the International Institute for the Unification of Private Law (UNIDROIT), together with the Food and Agriculture Organization (FAO), and with the support of the International Fund for Agricultural Development (IFAD).
The full Guide is due for publication in 2015. During the collaborative drafting process which precedes the publication of the Guide, a wide range of viewpoints were expressed, both at Unidroit meetings and during conferences and workshops organized worldwide. The Fondation was present, as an observer, at some of the discussions of the Unidroit Working Group in 2014.

The Working Group for the preparation of the guide brings together internationally-recognized legal scholars, partner multilateral organisations and representatives of the farmer community and agribusiness interests. The objective of the Guide is to address the range of legal issues that may arise in contract farming and provide soft guidance and an internationally-recognised reference with a fair and balanced approach.

More information about the Guide and its preparation may be found on the UNIDROIT website at www.unidroit.org.
See in particular the contract farming webpage at: http://www.unidroit.org/work-in-progress-studies/current-studies/contract-farming.
More information about contract farming (in general) may be found on the website of the FAO Contract Farming Resource Centre at http://www.fao.org/ag/ags/contract-farming/index-cf/en/ .

The working group of the Fondation on Contract Farming

3.- Composition of the working group :

Me Etienne Béguin, professeur à l'Université Libre de Belgique,

Mme Bikova juriste à l'association nationale des industries agro-alimentaires (ANIA)

M. Duprez, juriste à la FNSEA

Mme Fauvarque-Cosson, professeur, Université Panthéon-Assas (Paris II), chair of the group

Me René Le Fur, notaire

Mme Gruger juriste à la FNSEA

M. Papazian, Directeur général de la Fondation pour le droit continental

It is expressly specified that the comments expressed in the Working Group do not engage professional organizations (ANIA and FNSEA) and that each member of the group was only speaking in its personal capacity. The comments were drafted by Professor B. Fauvarque-Cosson on the basis of all the discussions and preliminary observations received.

4. Comments prepared by the working group of the Fondation

The working group met three times, at the Fondation pour la droit continental (in July 2014 , in September 2014, and in October 2014) ; it took as a basis for discussion all the documents available on the Unidroit website and the Zero draft for the third meeting.

A first draft Report, which circulated among all members was prepared in September, before the Zero draft was issued by Unidroit.

Subsequently, the first draft Report that had been prepared was amended and completed so as to take into account the latest developments and the Zero draft issued by Unidroit Secretariat.

The work of the Fondation focuses on two main aspects : general issues and specific questions that may be relevant for the drafters regarding domestic legislation and contract practice of contract farming operations.

- **General issues:** the group concentrated on some methodological aspects which relate to the audience of the Guide and the corresponding form the Guide should take so as to best meet its objectives.

- **Specific questions:** some specific legal aspects of the parties' agreement were discussed; the selection of the key issues was based on the practical experience of the

members of the Working Group especially convened by the Fondation in order to give its comments to Unidroit.

Since UNIDROIT would welcome receiving sample contracts or contract clauses, the members of the group also intend to send some contracts or contract clauses where the names of parties and other identifiable elements are cancelled. They are aware that UNIDROIT guarantees that confidentiality will be preserved in using the information.

I. General issues

5. The **Legal Guide on Contract Farming** is primarily addressed to the parties to a contract farming relationship, i.e. producers and contractors This Guide should provide guidance on the entire contractual relationship. The purpose of the Guide is to promote a better understanding of the legal implications of contract terms and practices. The draft chapters of the Guide provide a discussion of legal issues and critical problems that may arise under a variety of practical situations.

General considerations

6. The Group recognizes the political and economic importance of the role that contract farming can play in agricultural development. It brings its support to such a Guide.

The Group agrees with the scope of the Guide. This scope is derived from the broad economic approach of "contract farming" : *"a form of supply chain governance adopted by firms to secure access to agricultural products, raw materials and supplies meeting desired quality, quantity, location and timing specifications, whereby the conditions of exchange are specifically set among transaction partners by some form of legally enforceable, binding agreement. The specifications can be more or less detailed, covering provisions regarding production technology, price discovery, risk sharing and other product and transaction attributes.*"[1]

[1] **Future UNIDROIT / FAO Legal Guide on Contract Farming: Abstract document, p. 4, quoting** Da Silva, C. in: The growing role of contract farming in agri-food Systems development: drivers, theory and practice, Agricultural Management, Marketing and Finance Service FAO, Rome, 2005.

*7.*The Group agrees with the terminology chosen: "c*ontract farming refers to a particular modality of agricultural production based on an agreement between a farmer and another party – typically an agribusiness company. Under the parties' agreement, which is designated as an "agricultural production contract," the farmer would undertake to produce and deliver agricultural commodities in accordance with contractor's specifications, while the contractor would undertake to acquire the product for a price and would provide a certain degree of control over the production through a variety of forms. For example, the contractor could provide inputs, services, technology, financial support, and/or a close monitoring of the production process, including through certification.*

The intensity of the control exerted by the contractor may determine different levels of integration of the supply chain, ranging from a collaborative form to highly integrated relationships. When integrated relations are involved, the intensity and form of the control exerted by the contractor should not be such as to modify the legal nature of the relationship, for example into a partnership or an employment relationship".[2] [3]

8. The Group shares the view that it is important to strike a good balance and recognize the special nature of the agreements between agricultural producers and market operators under the perspective of both "*offering enabling conditions to investors in the processing industry, enhancing the participation of farmers in commercial production and their access to markets, while promoting equitable dealings between the parties*"[4].

9. Since not all countries have regulated such contracts through substantive rules - mandatory rules and default rules -, the Guide on Contract farming serves a double purpose :

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[2] Ibid.

[3] En France, se sont développés des contrats marqués par une forte dépendance économique et technique des agriculteurs vis-à-vis de l'agro-industrie (clauses d'exclusivité, normes et contrôles techniques de la production, fixation des prix selon des modalités particulières de variation ou d'adaptation…). Le législateur a dû intervenir pour protéger l'indépendance des agriculteurs dits intégrés en évitant la requalification de ces contrats en contrats de travail (loi n° 64-678 du 6 juillet 1964 modifiée par l'article 8 de la loi d'orientation agricole n° 80-502 du 4 juillet 1980). Le contrat intégré est soumis à une réglementation impérative. La qualification de « contrat intégré » est fondée sur deux éléments: qualité des parties (un producteur agricole ou un groupe de producteurs agricoles face à une ou plusieurs entreprises industrielles ou commerciales) et objet de leurs obligations (obligations réciproques de fournitures de produits ou de services)

[4] Ibid, p. 5

- 1. A contractual model for the "contracting parties"[5].

On this point, the Group welcomes the fact that it is very clear, from the outset (see *ZERO DRAFT, Introduction; Parties, Formation and Form*, par. 8), that the guide concerns "independent producers" in the sense that they should not be engaged into a working contract with the contractor. It suggests to make it also very clear that the word "independent" does not exclude a group of producers who joined together in a cooperative or some other form of group. Such groups fall within the scope of the Guide which envisages the various **possible "forms for conducting an agricultural production activity" (***; Parties, Formation and Form*, par.13 et seq.)

The Group agrees with the view expressed in Parties, Formation and Form (ZERO DRAFT, par. 3) :"concepts of agricultural producer and contractor presented below refer to the economic and legal position under a production contract, but not to the status that may be recognised under domestic laws or regulations for special purposes, such as subsidies or licences".

The Group notes that the approach chosen by UNidroit concentrates on "contractual equilibrium" between parties which, in most cases, are in different positions as regard this objective. It points out that the traditional approach in this respect, at least under French law, is not to look for the right equilibrium but to find appropriate legal tools so as to prevent and punish an "abuse" of its position by the strongest party (see the developments below on article L 442-6 du code de commerce particularly in footnote 7).

- 2. A model for international organizations, legislators, judges or mediators

The Group suggests that this model role of the Guide should be highlighted at the very beginning of the Guide. Indeed, it appears, on reading all the documents, that they are not only drafted for the parties (who will probably not read the full guide before drafting their contracts) but for professional organizations, judges, arbitrators, legislators, and, perhaps even most importantly for mediators, since the Guide purports to promote mediation.

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[5] Ibid, p. 5

The Group suggests that a paragraph similar to the Preamble of the Unidroit Principles should be drafted, so as to clearly explain the various and very distinct purposes of the Guide.

- 3. Length of the Guide

10. The Group considered that the length of the Guide may be a deterrent for the parties and that a more efficient and concise drafting should be adopted. In this respect, the Group welcomes the changes made by the Unidroit Secretariat and FAO but believes that the document is still too long and that some form of more practical document should accompany this Guide.

- 4. References to Unidroit Principles

11. Many "renvois" are made to the Unidroit Principles on international commercial contracts which set up a general legal framework on the field of international commercial contracts. Most of those who will consult the Guide are not familiar with the aim and content of the Unidroit Principles. Some further explanation should be given in this respect.

The nature of the relationship between the Unidroit Principles (general law of contracts) and the Guide should be better highlighted, especially in *Parties, Formation and Form*, where many footnotes refer to some provisions of the Unidroit Principles.

For instance, it should be recalled that the basic principles are freedoom of contracts, no formalism, binding character of contract, good faith and fair dealing etc., are all dealt with in Unidroit Principles which serves as an international model and that the developments in the Guide are subject to such general or overarching principles.

The same is true as regard more specific provisions, notably those on hardship, on the duty to mitigate (which is not self-evident for the civil law tradition, especially that this tradition pays great tribute to the good faith principles which may be considered as encompassing such a duty) or on termination.

12. The Group encourages the drafters of the Guide to give clear guidance as to the developments which directly concern the drafting of contractual clauses and those which are aimed at expressing more general views on the legal regime of contract farming and may also be useful for international organizations, legislators, judges or mediators.

- 5. Contract Farming: Legal Issues and Challenges : necessity to better distinguish according to the "filière" involved

13. The Group thinks that the Zero Draft does not pay sufficient tribute to the necessity to distinguish according to the specific area ("filière") concerned (eg : production of milk v. production of soja) and to the organization of these areas by type of product. It stresses the importance of the distinction between perishable and non-perishable products. Such a distinction has important consequences on delays, on quantity, quality and the Guide should take this into account while providing some guidelines on all these aspects. The producer's obligations which relate to quality vary according to whether or not part of a deficient product can or cannot be used.

14. From a sociological point of view, it is well-known that the various areas ("filières") are organized differently. This may vary according to the countries. In France for instance, the chicken producers will sign a contract whereby they receive a lot of instructions ("contrat d'intégration") while milk producers are very independent and usually refuse to receive instructions. For the growth of vegetables, potatoes producers are also very independent. The type of contract varies according to these sociological data which may differ from one country to another.[6]

6 Dans le secteur des fruits et légumes et secteur du lait, on observe un: phénomène de « contractualisation ». Le législateur a rendu obligatoire la conclusion de contrats écrits tenus de respecter un contenu prédéfini (formalisation des échanges). Traditionnellement, aucune convention écrite ne venait précéder l'accomplissement des prestations. Les ventes se faisaient au coup par coup, les producteurs de lait ne connaissent pas, au moment de la collecte, le prix auquel leur sera payé le lait livré, l'acheteur fixant unilatéralement les tarifs, le plus souvent dans les factures qu'il adresse au vendeur. Selon le nouvel article L. 631-24 du Code rural, issu de la loi n° 2010-874, du 27 juillet 2010, la conclusion de contrats de vente écrits peut être rendue obligatoire entre producteurs et acheteurs pour certains produits agricoles. L'obligation n'est pas générale et dépend, en priorité, de l'existence d'un accord interprofessionnel étendu ou homologué. En son absence, la décision est prise par un décret en Conseil d'État. Ces contrats écrits comportent des clauses relatives à la durée du contrat, aux volumes et aux caractéristiques des produits à livrer, aux modalités de collecte ou de livraison des produits, aux prix ou aux critères et modalités de détermination du prix, aux modalités de paiement, aux règles applicables en cas de force majeure et aux modalités de révision et de résiliation du contrat ou au préavis de rupture. Il n'y a pas de recours au contrat d'intégration dans ces secteurs. Il est à noter que ce phénomène de « contractualisation » s'inscrit dans un contexte européen plus général (cf. notamment le règlement 261/2012 du 14/03/2012, modifiant le règlement 1234/2007 du 22/10/2007 nommé « OCM unique », en ce qui concerne les relations contractuelles dans le secteur du lait et des produits laitiers).

In view of these differences, a presentation of the solutions suggested by the guide, "filière" by "filière", would be useful.

II. Specific questions

15. In this part, some specific legal aspects of the parties' agreement are discussed. As aforementioned, the selection of the key issues was based on the practical experience of the members of the Working Group especially convened by the Fondation in order to give its comments to Unidroit on the Draft Guide.
In view of the length of the documents, not all parts have been treated. The comments and remarks were made both on the basis of each member's own experience and on the basis of the documents available on Unidroit's website before September 2014. Subsequently, some amendments were made to take into account the changes that occurred with the publication, in September 2014, of the Zero Draft.

1. Obligation to mitigate, cooperation and more general concern on striking the right balance

16. Remedies for breach : the Group welcomes the introduction (see the Zero Draft) to the use of remedies. It provides general guidelines which are important. It notes that the sources of provisions on remedies are to be found primarily in the contract and notes the influence of the Unidroit Principles in this respect.

The Group also welcomes the distinction (and the explanations that go with it) as regard "cooperative and non-cooperative remedies against contractor's breach" (par. 161 et s.)

17. The provisions on remedies are favorable to the producers. This was particularly contested by the representatives of the food industry who opposed too large duties of cooperation. They also expressed serious doubts as regard "the escalation principle, for which contract termination should be considered as a last resort remedy, whereas performance, cure and repair should be favoured" (ibid.). They also have doubts as to the opportunity the right to a last attempt to perform (par. 72 et seq.), and wish it to be strictly limited. They also have doubts as regard the right to cure, (par. 73), and the duty of renegotiation (par. 75): "in the

light of the principle of cooperation, to take reasonable steps to review the contract rules may become a duty for all the involved parties".
This is not an exhaustive list. Many other aspects raise some concern of food industry representatives.

18. According to the Group, the emphasis on cooperative remedies is very strong and the importance of the duty to mitigate or of the right to cure should not be overestimated. In particular, the development on the contractor's duty to mitigate and the contractor's remedies (par. 159 et s.) give the impression that there is a "mitigation duty" while many legal systems (notably in the civil law tradition) do not recognize as such an obligation to mitigate.

19. The Group welcomes all changes on mitigation of damages and cooperation duties which avoid introducing some systematic suspicion on the contractors' behaviour. It also points out that is important to insist on the fact that the duty to mitigate and the obligation of cooperation is a reciprocal duty, which concerns both parties. More generally, it notes that the reference to good faith and fair dealing should not too widely open the door to the judges' discretionary power.

2. Quantity and exclusivity

20. Sometimes, an agricultural contact provides that the quantity is "the quantity produced on xxx acres".
It is important to draw the attention of the producer that the exclusivity should be expressly provided for and should not be a drastic one so that the producer can sell the surplus. Conversely, the contractor should not be forced to take delivery of an enormous quantity, should the harvest be exceptional.

3. Transfer of ownership and passing of risks

21. If the transfer of risk is not linked to the transfer of ownership, a specific attention should be paid to perishable products. The general idea is that as soon as one enters into possession of perishable products, he should take over the risks. The parties should be well aware of this. Besides, it is important to draw the producer's attention on the fact that in case he insert a clause whereby he keeps the ownership until payment of the products by the contractor, such

a clause should not prevent him from passing the risks on delivery. The Guide could give some model clauses on risk allocation.

4. Supervening events: change of circumstances

24. The group has expressed a lot of concern as regard the provisions on hardship. The general view is that there should be contractual clauses which deal with the allocation of risks, notably the possibility of a change of circumstances and that the judge should not be allowed to adapt or terminate the contract, especially that contracts contain price adjustment clauses that may refer to inflation, or other parameters in order to mitigate the effect of supervening factors.
Should the Guide follow the mechanism set up by Unidroit Principles, this should be clearly explained, with a clear "renvoi" to all the provisions on hardship, including UP art. 6.2.1 which reiterates the principle of the binding force of the contract. The reference to this text in footnote 6 (*Excuses for non performance, par. 9*) appears as insufficiently explicit.
Besides, parties should really be incited to draft their own clauses.

The group is concerned that judicial adaptation is not a proper solution. Should the judge be granted such a power, he will not be in a good position to know what the best solution is. In actual practice, the parties do not go to court for such problems; they preferably resort to mediation. In such a case, the mediator should not terminate the contract but rather find the right balance.

5. Dispute resolution – Mediation

25. The working group welcomes the developments on alternative dispute resolution as they offer appropriate solutions with regard to the nature of agricultural production contracts. It agrees with the view that "Mediation has several major advantages" (par. 22), and that it is appropriate for the parties to resort toe mediation on a voluntary basis.

It wishes to attract the attention of Unidroit on a specific mechanism in France (distinct from the one mentioned footnotes 20,23 and 24 of Dispute Resolution).

In France, the government (Ministry of economy) may organize a mediation. This is a political act, which may be necessary when contracts have not organized the mediation. The mediator usually intervenes for a whole series of contracts. This type of mediation is a very good means of solving disputes when the parties are in a very unbalanced contractual relationship with the consequence that the producer will never, on his own, take the initiative of requiring a mediator. Such mediations have collective effects and are made by mediators which have a specific formation and belong to an institutional mediation center.

Under French law, article 442-6 III of the Code de commerce provides for the possibility, for the Minister himself (Ministre de l'économie) to introduce an action before the courts in case of unfair commercial practices. It may be useful to draw the attention of all those who are interested in this Guide (not only contracting parties but also legislators) to such a text, as a way of restoring the equilibrium.

Apart from this specific situation, the group objects any form of mandatory mediation (comp. par. 23 of *Dispute Resolution*). This is true both in the specific case of hardship (it was indeed felt that, since the Guide favors mediation, article 6.2.3 should be modified so as to refer first to the mediator rather than to the court) or in other situations.
Besides, even if mediation is a fast process, it may be too slow when contract are very short term contracts.

6. Remedies

26. Some members of the Group had the impression, on reading the Guide, that contractual freedom as to remedies was far too restricted.
It is important to very clearly explain that the fact that termination for fundamental breach is possible does not prevent the parties from inserting termination clauses and that the restrictions concerning unilateral termination only apply in the absence of such clauses. Besides specific performance should never be imposed on the parties if none of them wishes to continue the contract.

In practice, termination clauses do not seem to raise too many difficulties. The most important and controversial question is the delay ("délai de préavis") which is needed before terminating.

There is a correlation between the practical situation and the way the termination clause should be drafted : for instance, in France, the case of milk producers, it will be very difficult for them to find another contractor of the previous one terminates the contract because of the way the distribution is organized on the whole territory. This is all the more crucial that the milk, in the producer's trunks, cannot be kept more than 2 or 3 days.[7]

III. Unfair commercial practices, EU law and new initiatives

27. The Group wants to draw attention on several recent European developments and new initiatives from the practice.

- 15.7.2014 : COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS, **Tackling unfair trading practices (UTPs) in the business-to-business food supply chain** COM(2014) 472 final

This communication states (par. 1) : "*However, over the past few decades, developments such as the increased concentration and vertical integration of market participants across the EU have led to structural changes in the food supply chain. These developments have contributed*

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Dans le secteur du lait, le décret n° 2010-1753 du 30 décembre 2011 prévoit « Les modalités de résiliation du contrat par l'une ou l'autre des parties, et notamment la durée du préavis de rupture qui ne peut être inférieure à douze mois, sans préjudice, le cas échéant, des dispositions de l'article R. 522-8 ». Fruits et légumes (décret n° 2010-1754 du 30 décembre 2010) : « Les modalités de résiliation du contrat et le préavis de rupture, dont la durée ne peut être inférieure à quatre mois ».

De manière plus générale, il faut relever qu'en droit français, l'article L 442-6 I. 5° du Code de commerce dispose: «Engage la responsabilité de son auteur et l'oblige à réparer le préjudice causé le fait, par tout producteur, commerçant, industriel ou personne immatriculée au répertoire des métiers » (…) :

« De rompre brutalement, même partiellement, une relation commerciale établie, sans préavis écrit tenant compte de la durée de la relation commerciale et respectant la durée minimale de préavis déterminée, en référence aux usages du commerce, par des accords interprofessionnels (…).

to a situation of significantly different levels of bargaining power and economic imbalances in individual trade relations between the actors in the chain. While differences in bargaining power are common and legitimate in commercial relationships, the abuse of such differences may sometimes lead to unfair trading practices (UTPs)."

In this Communication UTPs are defined as "*practices that grossly deviate from good commercial conduct, are contrary to good faith and fair dealing and are unilaterally imposed by one trading partner on another*".

It is important to note that the Communication specifies that it "d*oes not foresee regulatory action at EU level and does not prescribe a does not foresee regulatory action at EU level and does not prescribe a single solution to address the issue of UTPs, but rather encourages stakeholders and Member States to tackle UTPs in an appropriate and proportionate manner, taking into account national circumstances and best practice. It encourages operators in the European food supply chain to participate in voluntary schemes aiming at promoting best practices and reducing UTPs. It also emphasises the importance of effective redress. The Commission is committed to continuing working in close cooperation with the Member States and relevant stakeholders; everyone involved will need to play their part to help eliminate UTPs"*.

This Communication pays tribute to the The Supply Chain Initiative (http://www.supplychaininitiative.eu).
The Commission *"encourages all undertakings and relevant organisations in the food supply chain to sign up to a voluntary initiative addressing UTPs, in particular the Supply Chain Initiative, in order to show their commitment, build trust in the food supply chain and achieve the critical mass and broad coverage such schemes require to be effective".*

See Par. 4.3. The Supply Chain Initiative:

"The Supply Chain Initiative was developed in the context of the Commission's High Level Forum for a Better Functioning Food Supply Chain which is composed of national authorities and key stakeholder representatives at EU level from the supply and retail sides of the food sector. In November 2011, all market representatives involved in the Forum's working party on UTPs jointly agreed on a set of principles of good practice in vertical relationships in the food supply chain. These principles include: predictability of changes in contract terms; responsibility for own entrepreneurial risk; and justifiability of requests and charges.

In a second step, a voluntary framework for implementing the principles of good practice (the Supply Chain Initiative) was launched in September 2013. Individual companies may join the Supply Chain Initiative once they have assessed their compliance with the principles of good practice. Individual disputes can, according to the framework and subject to certain conditions, be addressed by dispute resolution mechanisms, mediation and arbitration. To prevent UTPs, the implementation framework focuses on organisational requirements at company level, including training of staff and the ability to participate in the dispute resolution mechanisms defined in the framework. Breaches of these organisational requirements can lead to the concerned company being excluded from the initiative. The framework commits its members to provide assurance that the weaker parties using the dispute resolution mechanisms are not subject to commercial retaliation.

The initiative is managed by a governance group which is composed of different stakeholder associations representing operators in the food supply chain. To date, nine months after the launch, 98 retail, wholesale and manufacturing groups and companies have registered, representing 736 operating companies across all EU Member States. The number of SMEs registering is increasing. However, not all relevant stakeholder associations have signed up to the framework. ***Notably, representatives of primary producers (i.e. farmers) and the meat processing industry have refrained from participating in the scheme's governance group at EU level. Although they agree with the principles, these stakeholders are concerned about the lack of independent and effective enforcement wi*****thin the Supply Chain Initiative. Some of them do however participate at national level"*** (our emphasis)**.**

<u>See also :</u>

- Green Paper on unfair trading practices in the business-to-business food and non-food supply chain in Europe COM(2013) 37 , 31 January 2013

- Survey on Unfair Commercial Practices in Europe, March 2011, organised by Dedicated on behalf of CIAA (European association of the food / drink industry) and AIM (European Brands Association)

- In an EU-wide survey among farmers and primary producers in the agri-food market, 46% of the respondents to the survey found that UTPs have a negative effect on access to new markets or cross border activities.