



**International Regulatory Co-operation
and International Organisations**

The Case of the Food and Agriculture Organization of the United Nations (FAO)



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By FAO Legal and Ethics Office

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Foreword

This study was developed in the framework of OECD work on international regulatory co-operation (IRC). It is part of a series started in 2014 that provides detailed overviews of the structure, governance, instruments and processes of international organisations (IOs) in support of international rule-making and standard-setting. To date the series includes the cases of the OECD, the International Maritime Organization (IMO), the Food and Agriculture Organization of the United Nations (FAO), the International Organization for Standardization (ISO), the International Organization of Legal Metrology (OIML), the World Health Organization (WHO) and the UN Economic Commission for Europe (UNECE).

The case studies complement the report on *International Regulatory Co-operation: The Role of International Organisations in Fostering Better Rules of Globalisation*, which compares the governance modalities and rule-making processes of 50 different IOs in enabling IRC between their Members. They aim to illustrate with greater in-depth and specific evidence the key features, challenges and successes of IOs in setting global rules, and to point out more subtle features of individual organisations that cannot stand out from a broader comparative analysis.

This work is the result of a two-year process that involved discussions on the role of IOs in fostering better rules of globalisation as part of meetings convened annually by the OECD since 2014. It benefitted from the strong commitment of a core group of organisations composed of FAO, IMO, ISO, OECD, OIML, UNECE and WHO established to provide strategic guidance and specific inputs to the project. The work built on a joint methodology and structure to ensure comparability across case studies; and on an innovative partnership between the OECD, the five IOs involved and the Nanterre Centre of International Law (CEDIN).

The OECD prepared the common structure used to develop the studies and organised the technical workshops bringing together the IOs and the CEDIN to guide the structure and substance and discuss the progress made and challenges faced in the research and drafting phases. In addition, the OECD ensured the quality control by reviewing the different drafts of the

case studies and managing the circulation of the final draft to OECD delegates and the 50 IOs involved in the work.

A number of CEDIN students, under the direction of Professor Jean-Marc Thouvenin, former Director, contributed closely to the development of the case studies and carried out an internship in the IOs under study to get acquainted to their functioning. The five IOs dedicated staff to work on the case studies, provided access to their processes and information to the students and ensured internal co-ordination for a comprehensive view of the variety of their practices.

The case study of FAO was developed by the Legal and Ethics Office (LEG) of FAO, with the support and research assistance from Aurore Vernhes, intern at LEG and student at the Nanterre Centre of International Law (CEDIN).

This work was developed as part of a joint project on the rule-making of international organisations under the leadership of Rolf Alter, Director for Public Governance and Territorial Development and Nicola Bonucci, Director for Legal Affairs. It was co-ordinated by Céline Kauffmann, Deputy Head, under the supervision of Nick Malyshev, Head of the OECD Regulatory Policy Division. The OECD review team in charge of quality and comparability control comprised Caroline Breton and Céline Folsché (Legal Affairs), Marianna Karttunen and Céline Kauffmann (Regulatory Policy Division). The case study was prepared for publication by Jennifer Stein.

The work on IRC in international organisations is being conducted under the supervision of the OECD Regulatory Policy Committee, whose mandate is to assist both members and non-members in building and strengthening capacity for regulatory quality and regulatory reform.

The Regulatory Policy Committee is supported by staff within the Regulatory Policy Division of the Public Governance and Territorial Development Directorate. The OECD Public Governance and Territorial Development Directorate's unique emphasis on institutional design and policy implementation supports mutual learning and diffusion of best practice in different societal and market conditions. The goal is to help countries build better government systems and implement policies at both national and regional level that lead to sustainable economic and social development. The directorate's mission is to help governments at all levels design and implement strategic, evidence-based and innovative policies to strengthen public governance, respond effectively to diverse and disruptive economic, social and environmental challenges and deliver on government's commitments to citizens.

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Acronyms and abbreviations

AfDB	African Bank for Development
AMIS	Agricultural Market Information System
ASEAN	Association of Southeast Asian Nations
AU	African Union
CAQ	Scientific Advisory Committee on Aquaculture
CCLM	Committee on Constitutional and Legal Matters
CCP	Committee on Commodity Problems
CCRF	Code of Conduct on Responsible Fisheries
CEB	Chief Executives Board for Coordination
CFRQ	Collaborative Forest Resources Questionnaire
CFS	Committee on World Food Security
CGRFA	Commission on Genetic Resources for Food and Agriculture
COAG	Committee on Agriculture
Codex	Codex Alimentarius Commission
COFI	Committee on Fisheries
COFO	Committee on Forestry
CPF	Country Programming Framework
CPM	Commission on Phytosanitary Measures
CSM	Civil Society Mechanism
CSO	Civil Society Organisation
ECOSOC	Economic and Social Council
EMPRES	Emergency Prevention Systems
EU	European Union
FAO	Food and Agriculture Organization of the United Nations

FAPDA	Food and Agriculture Policy Decision Analysis
FFC	Food Chain Management Framework
FRA	Global Forest Resources Assessment
G20	Group of Twenty
GCP	Government Cooperative Programme
GFCM	General Fisheries Commission for the Mediterranean
GRO	General Rules of the Organization
HLPE	High-Level Panel of Expert
HLTF	High Level Task Force
IADG	Internationally Agreed Development Goal
IAEA	International Atomic Energy Agency
IAEG-SDG	Interagency and Expert Group on SDG
IC	intergovernmental committee
ICC	Independent Chairperson of the Council
IEE	Independent External Evaluation
IFAD	International Fund for Agricultural Development
IGG	Intergovernmental Commodity Groups
IGO	Inter-Governmental Organisation
IIA	International Institute of Agriculture
ILO	International Labor Organization
IMF	International Monetary Fund
IO	International organisation
IOTC	Indian Ocean Tuna Commission
IPA	Immediate Plan of Action for FAO Renewal
IPOA- shark	International Plan of Action for the Conservation and Management of Sharks
IPOA-IUU	International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing
IPPC	International Plant Protection Convention
IPSAS	International Public Sector Reporting Accounting System
IRC	International Regulatory Co-operation

ITPGFRA	International Treaty on Plant Genetic Resources for Food and Agriculture
IUCN	International Union for Conservation of Nature and Natural Resources
JECFA	Joint FAO/WHO Expert Committee on Food Additives
MASA	Micronesian Association for Sustainable Aquaculture
MBO	Member-Based Organisation
NGO	Non-Governmental Organisation
NSA	Non-State Actor
OECD	Organisation for Economic Co-operation and Development
PBA	Public Budget Analysis
PGRFA	Plant Genetic Resources for Food and Agriculture
PIR	Programme Implementation Report
PSM	Private Sector Mechanism
PSMA	Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal Unreported and Unregulated Fishing
RAI Principles	Principles for Responsible Investment in Agriculture and Food Systems
RBAs	UN Rome-based Agencies
RBM	Result-based Management
RFMO	Regional Fisheries Management Organization
RIMA	Resilience Index Measurement Analysis
SAC	Scientific Advisory Committee on Fisheries
SBDS	Subsidiary Body on Dispute Settlement
SDG	Sustainable Development Goal
SM	Social Movement
SO	Strategic Objective
SOFA	The State of Food and Agriculture
SOFI	The State of Food Insecurity in the World
SOFIA	The State of World Fisheries and Aquaculture
SPS	Agreement on the Application of Sanitary and Phytosanitary Measures
SSF	Voluntary Guidelines for Securing Sustainable Small-scale

Guidelines	Fisheries in the Context of Food Security and Poverty Eradication
STDF	Standard and Trade Development Facility
TBT	Technical Barriers to Trade
TCP	Technical Cooperation Programme
UN	United Nations
UNACT	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
UNECE	United Nations Economic Commission for Europe
UNEG	United Nations Evaluation Group
UNEP	United Nations Environment Programme
UN-REDD	United Nations collaborative initiative on Reducing Emissions from Deforestation and forest Degradation
UTF	Unilateral Trust Fund
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security
WFP	World Food Programme
WHO	World Health Organization
WTO	World Trade Organization

Introduction

The Food and Agriculture Organization of the United Nations (FAO or “the Organization”) plays a leading role in promoting and strengthening international regulatory co-operation (IRC) within its areas of competence. Its broad mandate embraces nutrition, food and agriculture, including fisheries, marine products, forestry and primary forestry products. It addresses the whole food chain, from production to consumption, and encompassing processing and trade. With a membership including almost all countries of the world, FAO offers a unique global forum for international rule making and policy convergence and co-ordination in these areas.

FAO is an Inter-Governmental Organisation (IGO) with quasi-universal membership, and one of the first specialised UN agencies. FAO’s Strategic Framework identifies the “support to countries in the development and implementation of normative and standard-setting instruments” as one of its core functions. These features make FAO a critical platform for IRC in the areas of nutrition, food and agriculture. While being in many respects a traditional international organisation, FAO stands out in several respects:

- Its involvement in the development of strong legal tools – such as treaties – along with a wide range of non-legally binding tools.
- Its focus on implementation and compliance, with significant monitoring tools, capacity building and development assistance to support developing countries in their implementation efforts.
- Its involvement in the entire cycle of regulatory co-operation albeit in varying degrees of involvement, including the fact that FAO provides for dispute resolution (even if this recourse is in effect rarely used) and crisis management.
- Its commitment to adapt to new challenges and to remain relevant, as illustrated by the periodic reviews of its structure, activities and performance leading to institutional reforms (the decentralisation process and the adoption of the Results Based Management Framework for instance).

This case study provides an overview of FAO's role in IRC. The first chapter describes the broad mandate of FAO, its history and evolution as well related recent developments in response to social and political trends and major global challenges. The modalities for co-operation with other entities are also described.

The second chapter sets out the main characteristics of FAO's IRC. Included in this Chapter, in particular, are FAO's institutional framework and how it is linked to or impacts on IRC, some specific examples of the development of FAO's binding and voluntary IRC instruments, as well as its activities to support their implementation.

The third chapter provides an overview of the mechanisms and tools that ensure the quality of IRC. This chapter, in particular, describes the mechanisms established in the most recent institutional reform process to monitor the Organization's performance, including in the context of IRC. In addition, the various actions taken by the Organization and/or pursuant to its IRC instruments to enhance implementation and compliance are described.

Finally, in the fourth chapter, the case study highlights the assessment of the impact and success of FAO's IRC drawn from the measurement of the Organization's performance that is described in the third chapter.

Given the very broad scope of its mandate, the wide range of activities that it undertakes, and the number of its IRC instruments, this case study necessarily reflects only a small part of the role played by FAO in IRC. It is hoped, nevertheless, that it serves as a useful introduction to the mechanisms and methods of FAO's engagement in this important area.

The context of regulatory co-operation

History and mandate of FAO

Objectives and mandate of FAO

FAO, a specialised agency of the United Nations (UN), was established to raise levels and standards of nutrition and living globally; secure improvements in the efficiency of the production and distribution of all food and agricultural products, including sound management and sustainable utilisation of national resources; and better the condition of rural populations.¹ It would, in this way, contribute towards an expanding world economy and ensure humanity's freedom from hunger.

Article I of the Constitution (the Constitution) vests FAO with a broad mandate embracing nutrition, food, and agriculture (which includes “fisheries, marine products, forestry and primary forestry products”). The same Article describes the FAO’s core functions as follows:

- the collection, analysis, interpretation and dissemination of information relating to nutrition, food and agriculture;
- the promotion and recommendation of national and international action with respect to *inter alia* scientific, technological, social and economic research relating to nutrition, food and agriculture; the conservation of natural resources, the adoption of improved methods of agricultural production, and the development of policies for the provision of adequate agricultural credit and with respect to agricultural commodity arrangements;
- provision of technical assistance as governments may request;
- organisation, in co-operation with the governments concerned, of missions that may be needed to assist them in fulfilling the obligations arising from their acceptance of the recommendations of the United Nations Conference on Food and Agriculture and of the Constitution.

Context of FAO creation

FAO has its origins in the final years of the Second World War, as a result of growing recognition – during the 19th and early 20th century – of the importance of nutrition for health and the need to address common problems of agriculture, taking into account scientific and technological developments.

At the initiative of Franklin D. Roosevelt, President of the United States of America, representatives of 44 Nations met from 18 May to 3 June 1943 at the United Nations Conference on Food and Agriculture, convened in Hot Springs and committed to the establishment of a permanent organisation in the field of food and agriculture.² In its Final Act, the Hot Springs Conference declared “its belief that the goal of freedom from want of food, suitable and adequate for the health and strength of all peoples, can be achieved”, and an Interim Commission for Food and Agriculture (“the Interim Commission”) was created to prepare for the establishment of this permanent organisation. The Interim Commission prepared the draft Constitution of FAO and convened a meeting of plenipotentiaries in Quebec (Canada) at which, on 16 October 1945, the Constitution was signed by 34 Nations and entered into force. The first Session of the FAO Conference was held immediately thereafter.

The evolution of FAO

Over the last 70 years, FAO has periodically reviewed its structure, activities and performance in light of new and diverse challenges, including rapid population growth and urbanisation, changes in patterns of food consumption, globalisation of the agriculture sector, economic crises, the impacts of environmental changes, including climate change, as well as natural and manmade calamities.³ As a consequence of these reviews, it has periodically implemented a number of institutional reforms, and has developed binding and non-binding instruments to respond to changing circumstances and priorities.

The present structure of FAO is the result of the Independent External Evaluation (IEE) initiated in 2005. The IEE assessed FAO’s institutional structure, operational modalities and its strategic priorities. It identified operational and governance reforms aimed at improving FAO’s performance and its ability to respond to emerging challenges. As a result of the IEE, in 2008, a Special Session of the FAO Conference adopted the Immediate Plan of Action for FAO Renewal (IPA). The IPA covered three main areas: priorities and programmes of the Organization; governance reform; reform of systems, programming and budgeting, culture change and organisational restructuring. The IPA approved a new Vision of “a world free from hunger

and malnutrition where food and agriculture contribute to improving the living standards of all, especially the poorest, in an economically, socially and environmentally sustainable manner”. It identified Global Goals for inclusion in a new Strategic Framework and introduced a Results-based Management (RBM) Framework, a management cycle focused on performance and results, for all FAO’s work.

FAO’s global goals and strategic objectives

Pursuant to the RBM Framework established by the IPA, and following an assessment of macroeconomic social and political trends and major global challenges,⁴ in 2009 FAO established a Strategic Framework for the period 2010-19.⁵ The Strategic Framework was subsequently reviewed and, in 2013, the Organization’s three Global Goals were revised to read as follows:

- eradication of hunger, food insecurity and malnutrition, progressively ensuring a world in which people at all times have sufficient safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life;
- elimination of poverty and the driving forward of economic and social progress for all, with increased food production, enhanced rural development and sustainable livelihoods; and
- sustainable management and utilisation of natural resources, including land, water, air, climate and genetic resources for the benefit of present and future generations.

In addition, five Strategic Objectives (SOs) were identified to contribute to the Organization’s Global Goals:

- SO 1: Contribute to the eradication of hunger, food insecurity and malnutrition;
- SO 2: Increase and improve provision of goods and services from agriculture, forestry and fisheries in a sustainable manner;
- SO 3: Reduce rural poverty;
- SO 4: Enable more inclusive and efficient agricultural and food systems at local, national and international levels; and
- SO 5: Increase the resilience of livelihoods to threats and crises.

As regards IRC, the FAO Strategic Framework identifies the “support to countries in the development and implementation of normative and standard-setting instruments” (international agreements, codes of conduct,

technical standards and others) as one of FAO's core functions. Specifically, FAO is mandated to develop these instruments "at global, regional and national levels through global governance mechanisms, policy dialogue and support and advice, coupled with the development at country level of the necessary policies and institutional capacities for their implementation".⁶ The importance of IRC instruments is highlighted, in particular, under SO 2.

FAO's activities and priorities to implement the SOs are set out in two programmatic documents: the Medium Term Plan (MTP) and the Programme of Work and Budget (PWB). The former is a four-year plan setting the specific outcomes to contribute to the achievement of the SOs, and identifying focus areas for each outcome, estimated resources and performance indicators. The PWB is a two-year plan that identifies activities to be performed during the biennium and quantifies the resources required for each activity. The MTP and the PWB are periodically reviewed and modified to address changing circumstances and budgetary levels to ensure effective implementation.⁷

FAO's Strategic Framework is broadly aligned with the Sustainable Development Goals (SDGs). In particular, SO 1 and SO 3 mirror, and complement, the first and second SDGs – "No Poverty" and "Zero Hunger". At the time of writing, FAO is collaborating closely with the UN Statistical Commission and the Interagency and Expert Group on SDG indicators (IAEG-SDG) in the development of appropriate indicators. It will support countries to monitor some of the SDG indicators identified by the IAEG-SDG relating to targets covering areas such as ending hunger, food insecurity and malnutrition, and better managing natural resources.

Co-operation and partnerships

Because issues linked to food and agriculture and natural resource utilisation are closely linked to broader issues such as sustainable development, trade, environment and biodiversity, other entities act in areas close to FAO's mandate. Recognising the challenges related to fragmentation and a complex mosaic of overlapping and misaligned strategies, advice, frameworks, guidelines, rules and policies,⁸ as well as the benefits of co-ordination and the potential for synergy, FAO collaborates with various actors.

Collaboration with intergovernmental organisations

FAO regularly collaborates with a variety of international and regional IGOs in the context of formal relationships reflected in framework agreements, or through ad hoc time-bound arrangements for specific

projects or programmes, or both. In 2016, the FAO had some 300 general co-operation agreements with IGOs.

There is a special framework for collaboration with other UN System agencies, that is, the UN, its funds and programmes, and the Specialized Agencies – an example is provided in Box 1. The Director-General participates in the UN System Chief Executives Board for Coordination (CEB), the highest-level co-ordination forum of the UN System. FAO is also a member of the three “pillars” that support the CEB: the UN Development Group, the High-Level Committee on Management and the High-Level Committee on Programmes.

Through reciprocal representation arrangements, FAO and its IGO partners collaborate in the deliberations and work of each other’s organs and meetings in an advisory or observer capacity.

Box 1. Co-operation with the UN on statistics

By Article XII of the Agreement between the UN and FAO (1946), FAO recognises “the United Nations as the central agency for the collection, analysis, publication, standardization and improvement of statistics serving the general purposes of international organizations” and the United Nations, in turn, “recognizes the Food and Agricultural Organization of the United Nations as the appropriate agency for the collection, analysis, publication, standardization and improvement of statistics within its special sphere”.

The UN Statistical Commission (“the Statistical Commission”) is a functional commission of ECOSOC. It assists ECOSOC in, inter alia, “promoting the development of national statistics and the improvement of their comparability”, “the coordination of the statistical work of specialized agencies” and “promoting the improvement of statistics and statistical methods generally”.¹

The Statistical Commission provides the intergovernmental co-ordinating machinery for interaction between the Specialized Agencies and the UN on matters related to statistics. FAO participates in the meetings of the Statistical Commission as an observer.

1. ECOSOC Resolution 1566 (L) of 3 May 1971, reaffirming its Resolution 8 (I) of 16 February 1946, as amended by resolution 8 (II) of 21 June 1946. Annex to the “Report of the Bureau of the Statistical Commission on the review of working methods”, document E/CN.3/2005/2, 21 December 2004.

In addition, other types of collaboration are undertaken in the areas of policy, administration and technical matters, as reflected in some of the examples set out in boxes below.

Policy and regulatory co-operation

IGOs working on issues related to FAO's mandate contribute to FAO's policy dialogue and standards-setting processes.⁹

IGOs may participate as observers in the meetings of a Governing or Statutory Body either because they have been granted the formal status of observer by the Organization or on the invitation of the Director-General, which is subject to approval by the Body concerned. The authorisation of IGOs to participate as observers depends on their role in and contribution to that Body's area of work, as well as their geographical scope. Observer status allows them to attend meetings, to make formal statements, to participate in discussions, to receive documents, but not to vote.

IGOs are also involved in the development of FAO's IRC instruments. While decision-making with respect to adoption or approval of FAO's IRC instruments lies with Members, IGOs having expertise in a relevant field are invited to share their experience with the FAO Secretariat directly or in processes initiated by the Governing or Statutory Body and provide their views on draft instruments, in particular during the informal consultations or the formal formulation and negotiation stages of developing an instrument.

Policy and standard-setting collaborations may also be carried out on the basis of partnerships or standing co-ordination mechanisms – such as the Standards and Trade Development Facility (STDF) and the High Level Task Force on Global Food and Nutrition Security (HLTF) (Box 2) – or through joint bodies such as, for example, the Codex Alimentarius Commission (Codex).

Box 2. The High Level Task Force on Global Food and Nutrition Security (HLTF)

FAO is part of, and hosts, the HLTF, a mechanism for policy co-ordination and collaboration created in response to the food crisis in early 2008 and bringing together the Executive Heads of the UN System, the World Bank, the International Monetary Fund (IMF), the World Trade Organization and the Organisation for Economic Co-operation and Development (OECD). The HLTF aims to “promote a comprehensive and unified response of the international community to the challenge of achieving global food and nutrition security”.¹

For example, the Comprehensive Framework for Action developed by the HLTF in 2008 and updated in 2010 provides governments, IGOs and CSOs with guidance on policies and actions to prevent and address food security crisis. They address immediate needs, like investing in food assistance and social safety nets, and longer-term structural needs, like scaling up investment in agriculture, increasing opportunities for producers, pastoralists and fisher folk to access land, water, inputs, and post-harvest technologies.²

Box 3. The High Level Task Force on Global Food and Nutrition Security (HLTF) (*cont.*)

The HLTF also works closely with various regional organisations. For instance, collaborations with the African Union (AU) and the Association of Southeast Asian Nations (ASEAN) contribute to providing political incentive and technical guidance at country level, as well as building regional markets and pooling risks.³

1. See www.un.org/en/issues/food/taskforce/.
2. HLTF, *Updated Comprehensive Framework for Action*, 2010, Part B, Sections 1 and 2.
3. *Ibid.* Part C, Section 2.

Administrative co-operation

On the basis of the Constitution and subject to any decision of the Conference, the Director-General may “enter into agreements with other [IGOs] for the maintenance of common services, for common arrangements in regard to recruitment, training, conditions of service and other related matters, and for interchanges of staff” (Article XIII(2) of the Constitution). These administrative arrangements optimise the use of financial, human and material resources. For example, the UN Rome-based agencies (RBAs) – FAO, IFAD and WFP – co-operate in various cost sharing arrangements in Rome for conference services, translation, administration, information technology and library/ documentation services. They also share their decentralised premises and human resources in certain countries.¹⁰

Technical co-operation

Collaboration with other IGOs on technical matters is undertaken on matters of common concern or where there are complementary or related mandates. Collaboration in technical matters takes many forms, some of which are specific and limited in scope (such as ad hoc participation in workshops, the preparation of joint studies), and others which are long-term and larger in scale (such as the joint development and implementation of regional or global projects).

Box 4. The collaboration between FAO and the United Nations Economic Commission for Africa (UNECA)

FAO and the United Nations Economic Commission for Africa (UNECA) collaborate to assist African States and Regional Economic Communities in implementing the *Framework and Guidelines on Land Policies in Africa* and the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests* (VGGT). The former is a policy document developed by the *Land Policy Initiative*, a joint initiative of the AU Commission, UNECA, and the African Development Bank (AfDB), and adopted by a Joint Conference of Ministers of Agriculture, Land and Livestock held in 2009.¹ The VGGT were adopted by the CFS in 2012.²

1. On the Land Policy Initiative, see www.unece.org/lpi/pages/about-lpi.
2. Report of the 38th (Special) Session of the CFS, *Decision Box* and Appendix D.

Collaboration with Non-State Actors (NSAs)

FAO recognises that the achievement of its mandate requires collaboration with different stakeholders. Accordingly, it partners with certain NSAs whose functions or activities are relevant to its mandate in the context of both policy dialogue and standard-setting activities, as well as technical co-operation activities. The role of NSAs in the development of IRC instruments is described below. In the specific case of the Committee on World Food Security (CFS), NSAs contribute to the IRC process through an institutionalised mechanism (Box 8).

As regards technical co-operation activities, FAO co-operates with relevant NSAs, particularly CSOs, on activities in the field “to design, implement and monitor quality and sustainable local initiatives, programmes, projects and emergency responses”. This collaboration includes knowledge sharing activities, capacity development projects, awareness-raising campaigns and resource mobilisation.

Main characteristics of regulatory co-operation in the context of FAO

A core function of the Organization is to “[f]acilitate and support countries in the development and implementation of normative and standard-setting instruments such as international agreements, codes of conduct, technical standards and others. This work will be developed at global, regional and national levels through global governance mechanisms, policy dialogue and support and advice, coupled with the development at country level of the necessary policies and institutional capacities for their implementation.”¹¹ FAO is, thus, organised to deliver on this mandate. In particular, its institutional structure and governance arrangements (membership, governance, organisation of the secretariat) support a wide geographic participation, consensual decisions, technical work led by a strong secretariat and a decentralised approach through country offices to facilitate field intervention. Building on its institutional architecture, the FAO is involved in the entire cycle of regulatory co-operation, from data collection, the development of legal instruments, to compliance assessment and crisis management, and uses various IRC tools at both operational and governance level.

One of the main global challenges that FAO and the international development community will face in the future will be to “[s]trengthen governance mechanisms for the needs for food, agriculture, forestry and fisheries systems at national, regional and global levels”.¹² Under the MTP, “Outcomes” are the changes in the country, regional or global, enabling environment and in capacities available to achieve a specific SO. In the context of IRC, one Outcome under the MTP 2014-17 is that “[s]takeholders endorse/adopt international (including regional) instruments and support related governance mechanisms for sustainable agricultural production systems”.¹³ Consequently, work and resources have been allocated by FAO under the PWB towards meeting this Outcome, and performance is being monitored in accordance with the results-based approach.

Institutional framework and governance arrangements of FAO

The statutory institutional framework of FAO, which is the foundation for FAO's role in IRC and influences the process for formulation and nature of the IRC instrument and its implementation, is established pursuant to the instruments reflected in the Basic Texts. The "Basic Texts" refer to a collection of the primary instruments of FAO, including the Constitution, the General Rules of the Organization (GRO), the Financial Regulations, as well as the rules of procedure specific to each Governing Body. Also included are a number of policy guidance documents. Amendments to the Basic Texts, including the addition of new instruments, are approved by the Conference.

FAO membership

As at August 2016, FAO had 194 Member Nations, one Member Organisation (the European Union) and two Associate Members (the Faroe Islands and Tokelau).

Member Nations and Member Organisations

The Constitution envisages three categories of Members:

- Nations entitled to "original membership" on the basis of Article II(1) of the Constitution. They are those States that participated in the 1943 Hot Springs Conference (see Section above), as listed in Annex I to the Constitution. Those States may become Members of the Organization by depositing an instrument of acceptance of the Constitution.
- States other than those entitled to original membership, which may become Members on the basis of Article II(2) of the Constitution. Their admission is subject to a decision of the Conference by a two-thirds majority vote and the deposit of an instrument of acceptance of the Constitution.
- Regional economic integration organisations, which may become Members pursuant to Article II(3) of the Constitution. Their admission is subject to a decision of the Conference by a two-thirds majority vote and the deposit of an instrument of acceptance of the Constitution. This category of membership was introduced by an amendment to the Constitution in 1991. To be eligible to apply, a regional economic integration organisation must be constituted by sovereign States — a majority of which are FAO Member Nations — and those States must have transferred competence to that

regional economic integration organisation, including the authority to take binding decisions, over a range of matters within the purview of the Organization. A Member Organisation exercises membership rights on an alternative basis with its Member States according to their respective competences (for example, when the European Union (EU) exercises its right to speak or vote, the EU Member States do not, and vice versa). It has the right to participate in matters within its competence in any meeting of the Organization, but is not eligible for election or designation to any such body.

Associate Members

“[A]ny territory or group of territories which is not responsible for the conduct of its international relations”¹⁴ may become an Associate Member of the Organization. The application to become an Associate Member is made by the Member Nation or authority having responsibility for the international relations of the territory/group of territories. Associate Membership is subject to a decision of the Conference by a two-thirds majority vote and a formal declaration by the Member Nation concerned that it accepts the obligations set out in the Constitution on behalf of the proposed Associate Member and that it assumes responsibility for ensuring the observance of the provisions in the Constitution relating to the privileges and immunities of the Organization and its personnel, and contributions to the FAO budget. An Associate Member can participate in the deliberations of the Conference but cannot vote.

Governing Bodies

FAO’s Governing Bodies are “the bodies which directly, or indirectly through their parent bodies, contribute within their respective mandates, to i) the definition of the overall policies and regulatory frameworks of the Organization; ii) the establishment of the Strategic Framework, the Medium-Term Plan and the Programme of Work and Budget and iii) exercise, or contribute to the oversight of the administration of the Organization”.¹⁵ They are established under the Constitution. They comprise the Conference, the Council, the Council Committees, the Technical Committees and the Regional Conferences (Figure 1).

The IPA identified two major and distinct functions of the FAO Governing Bodies:

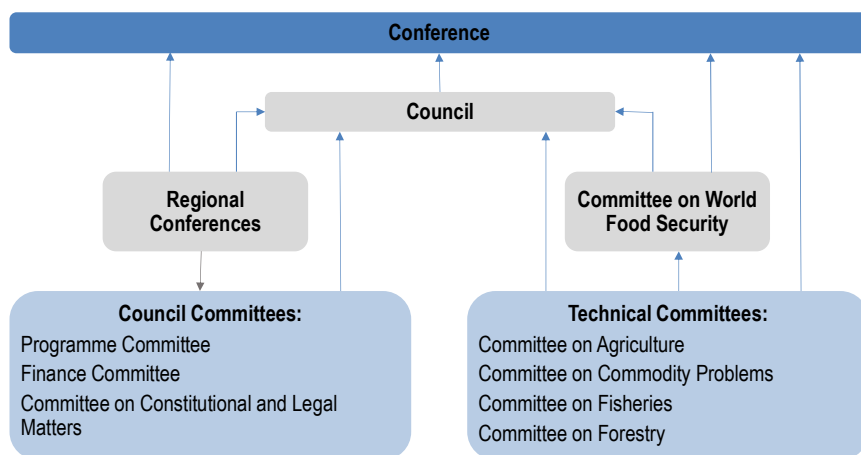
- a) the review of the world food and agriculture situation and the pursuit of global and regional policy coherence between governments on major international issues for food and agriculture, including their national implications, and the design or adjustment

of international instruments, including treaties, conventions and regulations; and

b) the executive policy decision-making and oversight for FAO as an Organization, including its programme and budget.

In light of these functions, the IPA delineated the specific role and functions of each Governing Body and, in some cases, enhanced their role in FAO governance.

Figure 1. FAO Governing Bodies



Source: FAO (2016), “Governing and Statutory Bodies Web Site” www.fao.org/unfao/govbodies/gsbhome/gsb-home/en/.

The Conference (Article III-IV of the Constitution)

The Conference is the supreme decision-making body of the Organization. It determines FAO’s policy, approves its programmes of work and budget and exercises any other powers conferred upon it by the Constitution. For instance, the Conference decides on the admission of new Members, and adopts the General Rules and Financial Regulations of the Organization. It was the Conference that adopted the IPA and the related Visions, Global Goals and Strategic Frameworks.

The Conference plays a key role in IRC: it adopts regulatory instruments (see below) and makes recommendations to the Members regarding “questions relating to food and agriculture, for consideration by them with a view to implementation by national action”,¹⁶ as well as to any IO concerning any matter pertaining to the purpose of the Organization.

The Conference also appoints the Director-General, the executive head of the Organization. The Director-General is appointed for a term of four years (renewable for one additional term of four years). Subject to the general supervision of the Conference and the Council, the Director-General has full power and authority to direct the work of the Organization. The Director-General participates, without the right to vote, in all meetings of the Conference and of the Council and formulates proposals for appropriate action for their consideration regarding matters coming before them.

The Conference holds its regular sessions on a biennial basis. Each Member Nation and Associate Member is represented by one delegate, who may be accompanied by alternates, associates and advisers.¹⁷

The Council (Article V of the Constitution)

The Council acts on behalf of the Conference between its sessions as its executive organ, and may make decisions on matters that do not need to be submitted to the Conference. Its 49 Members are elected by the Conference for three-year terms, having due consideration to “a balanced geographical representation of nations interested in the production, distribution and consumption of food and agricultural products” and “the participation in the work of the Council of such Member Nations as contribute in a large measure towards the success of the Organization”.

In the context of IRC, the Council plays a role in the review of instruments prior to transmittal to the Conference. In addition, where instruments are of regional or sub-regional – rather than global – application, they are normally approved by the Council rather than the Conference.

Each Member of the Council has one representative and one vote, and can appoint alternates, associates or advisers to its representative. The Council normally holds at least five sessions in a biennium.

The IPA vested the chairperson of the Council with a role that is unique in the UN System. The Independent Chairperson of the Council (ICC) has no vote and facilitates the exercise by the Council of its governance functions and oversight of the administration of the Organization. The ICC acts to achieve consensus among Members, especially on important or controversial issues. The ICC attends the meetings of all Governing Bodies, liaises with their chairpersons, and ensures dialogue among these fora. Where necessary, the ICC may convene informal consultations among the Members and liaises with the Director-General in respect of any concerns of the membership, as expressed through the Governing Bodies.¹⁸ Because of these functions, which require autonomy and impartiality, the ICC is appointed by the Conference¹⁹ for a term of two years (renewable only

once). When selecting the ICC, the Conference considers the ability of the candidates to be objective, sensitive to political, social and cultural differences, and their experience in areas relevant to the Organization's work.²⁰

In the performance of its functions, the Council is assisted by the Council Committees and the Technical Committees.

The Council Committees (Article V of the Constitution)

The Council Committees are the Programme Committee, the Finance Committee and the Committee on Constitutional and Legal Matters (CCLM). They assist and advise the Council on matters pertaining to the operational, financial and legal administration of the Organization. These Committees are composed of a limited number of Member Nations, elected by the Council according to a specified regional representation. Members appoint their representatives in these Committees taking into consideration their specific competence and expertise.

These Committees play an important role in the adoption or amendment of binding IRC instruments, reviewing proposals before submission to the Council from a programmatic, financial and legal perspective.

The Council Committees normally meet twice per year. The Programme and Finance Committees regularly hold concurrent sessions and, during these, may hold joint meetings.

The Technical Committees (Article V of the Constitution)

The Committee on Agriculture (COAG), the Committee on Fisheries (COFI), the Committee on Forestry (COFO) and the Committee on Commodity Problems (CCP) are the Technical Committees of the Organization. The IPA assessed the role of these Committees and determined that they “are fundamental to FAO’s work. They are committees of the whole membership and have distinct roles: Firstly developing global information exchange, policy coherence and instruments for their area of competence; and secondly providing proposals to the Council and Conference on the Strategy and Programme of the Organization”. The IPA clarified the reporting lines of the Technical Committees, determining that “as committees of the whole, [they] deal with world issues as well as FAO’s programme and will report directly to the FAO Conference on global issues and to the Council on FAO programme priorities and performance”. The Technical Committees also advise the Director-General. The Technical Committees play an important role in the development and adoption of voluntary IRC instruments.

The Technical Committees normally hold one session per biennium and are open to participation by all FAO Members.

The Regional Conferences (Article IV.6 of the Constitution)

There are five formally established Regional Conferences for, respectively, Africa, Asia and the Pacific, Europe, Latin America and the Caribbean, and the Near East. There is also an Informal Regional Conference for North America. Under the IPA, the role of the Regional Conferences in FAO governance was strengthened. The IPA clarified their reporting lines to the Council on programme and budget matters and to the Conference on policy and regulatory matters, thus formalizing the arrangements through which regional priorities are reflected in the SOs. They offer a forum for policy coherence within a region, for discussion of global priorities as they relate to the region, and they provide inputs to the Council and Conference on FAO priorities and on issues such as intra-regional trade and investment. The role of each the Regional Conference may vary from region to region. The Regional Conferences meet once every biennium in non-Conference years.

The Committee on World Food Security (Article III(9))

The Committee on World Food Security (CFS) is a *sui generis* body. In 2008, the CFS embarked on profound reform, to become “the foremost inclusive international and intergovernmental platform for a broad range of committed stakeholders to work together in a co-ordinated manner and in support of country-led processes towards the elimination of hunger and ensuring food security and nutrition for all human beings”. One outcome of this reform process is its unique operational modalities, addressed further at Section below.

The CFS is an intergovernmental committee established under the Constitution which, however, reports to both the FAO Conference and the UN General Assembly through the Economic and Social Council (ECOSOC). Membership is open to Members of FAO, the International Fund for Agricultural Development (IFAD), and the World Food Programme (WFP), as well as non-member States of FAO that are Member States of the UN. The CFS includes: the Plenary; the CFS Bureau (twelve Members, two each from Africa, Asia, Europe, the Near East and Latin America and one each from North America and South West Pacific) and its Advisory Group (representatives of FAO, WFP, IFAD and other non-Member “Participants”); the High-Level Panel of Experts (a multi-disciplinary scientific advisory body); and its secretariat. The CFS

secretariat is jointly provided and funded by FAO, IFAD and WFP. The CFS meets annually.

Statutory Bodies

Statutory Bodies are established to address specific subjects, as deemed necessary by the Members, pursuant to Articles VI and XIV of the Constitution. At the time of writing, they exist to address issues concerning agriculture, animal production and health, commodities and trade, fisheries, food policy and nutrition, forestry, genetic resources for food and agriculture, land and water development, plant protection and production, and statistics.

Article VI Bodies are established by the Conference, the Council, or the Director-General on the authority of the Conference or the Council, with mandates of global or regional scope. They may be intergovernmental bodies or constituted by individuals serving in their personal capacity, and they may be established by FAO alone, or as joint bodies in conjunction with other intergovernmental organisations. Only intergovernmental bodies are involved in IRC activities.

Article XIV Bodies are established by treaties concluded under the framework of FAO. In each case, the treaty is first adopted by the Conference or the Council (depending on whether it is global or regional in scope) and then submitted to the FAO Members for formal acceptance by Members according to the provisions of the treaty. Article XIV Bodies do not have autonomous legal personality but enjoy a high level of autonomy. As a general principle, Article XIV treaties are only concluded when there is an intention to establish financial or other obligations going beyond those already assumed under the Constitution. Where expressly provided in the establishing treaty, Article XIV Bodies may adopt legally binding decisions and regulatory instruments.

Decision-making process

The legal framework of FAO provides for various decision-making modalities: unanimity, consensus, simple and qualified majority. However, in accordance with established practice, Member Nations generally take decisions by consensus. When consensus cannot be reached, the relevant rules governing each FAO Body establish the quorum and voting arrangements.²¹ As a general rule, unless otherwise provided, the required majority for any decision or election shall be more than one half of the votes cast (the votes cast includes affirmative and negative votes).²² Any gaps or lacunae in the applicable rules of procedure are addressed in accordance with the GRO.

The FAO Secretariat

FAO can be classified among the IOs with a substantial Secretariat (OECD, 2016). As at 31 December 2015, the FAO Secretariat²³ comprised some 1 738 professional staff and 1510 support staff.²⁴ Appointments are “subject to the paramount importance of securing the highest standards of efficiency and technical competence”, paying due regard to the importance of recruiting personnel “on as wide a geographical basis as possible”.²⁵ Approximately 57% of the staff is based at FAO Headquarters in Rome (Italy), while the remainder are located at its decentralised offices.²⁶

Pursuant to the IPA, and with a view to providing “services flexibly to Members and create an effective flow of information as a knowledge organization”, FAO has strengthened its decentralised presence, with increased delegation of authority to the decentralised offices. FAO’s decentralised office network comprises: five regional offices (responsible for overall identification, planning and implementation of FAO’s priority activities in the Region); nine sub-regional offices (part of the regional offices and responsible for the overall planning of activities in each Sub-region); and, 142 country offices (to assist governments to develop policies, programmes and projects to address the root causes of hunger and malnutrition; to help them to develop their agricultural, fisheries and forestry sectors, and to use their environmental and natural resources in a sustainable way). In addition, the Organization has six liaison offices (at locations where many UN system organisations and other international organisations are working, to maintain relations with Members and external development partners in these locations), and two information offices.²⁷

Programme of Work and Budget (PWB)

Each Member and Associate Member of FAO is obliged to contribute to the Organization’s budget according to the share apportioned to it by the Conference. The share to be met by each Member and Associate Member is based on the FAO Scale of Assessments which, in turn, derives from the UN Scale of Assessments, as adjusted to reflect the different membership of FAO.²⁸ Member Organisations are not subject to the assessed contribution but, instead, pay a sum determined by the Conference to cover administrative and other expenses arising out of their membership of FAO.²⁹

The Organization’s activities are also funded through voluntary contributions donated “through direct support to the Organization, or through Trust Funds to provide technical and emergency assistance to governments for clearly defined purposes linked to the Programme of Work”.³⁰

As reflected above, FAO's activities and priorities to implement the SOs are set out in two programmatic documents: the MTP and the PWB. The PWB identifies activities to be performed during a biennium and quantifies the resources required for each activity. The PWB adopted by the Conference for 2016-17 presents an integrated view of the total resource requirements to carry out the Programme of Work, funded through assessed contributions and voluntary contributions. The total funding requirements approved for 2016-17 was USD 2.6 billion, of which 39% was to come from assessed contributions and 61% through voluntary contributions. As also noted above, the PWB is kept under review and, if appropriate, revised during the biennium.

Forms of regulatory co-operation provided by FAO to its members

Collection, analysis and dissemination of data and policy guidance

Accurate, objective and scientifically grounded data is key to IRC in FAO: it supports policy and law making at the national and global level, and provides the basis for the development of FAO's regulatory instruments and monitoring their implementation. The collection, analysis, interpretation and dissemination of information relating to nutrition, food and agriculture is part of FAO's constitutional mandate (Article I(1) of the Constitution).

The Reviewed Strategic Framework recognises that the need for “the adequate provision of public goods including services, information, knowledge and innovations, evidence-based policy advice, regulatory frameworks, codes of conduct, agreements for common action, and so on at local, national and global levels is essential for development”. An emphasis on evidence-based policy and decision-making is to be found throughout the SOs, and there is a separate (sixth) Objective under which work and resources aim to achieve: “i) quality and integrity of the technical and normative work of the Organization; ii) quality and integrity of the data produced and analysed by the Organization; iii) quality services, coherent strategy and approaches to work on governance and gender equality and women's empowerment in the SO programmes”.

FAO collects data through a variety of means. Members are under an obligation to provide statistical, technical and other information issued by or readily available to them pertaining to matters within the competence of the Organization, as well as the texts of laws and regulations (Article XI of the Constitution). The Conference, the Council or the Director-General may also request the Members to furnish other information, including on the action taken based on resolutions or recommendations of the Conference. Also, in the context of specific programmes and projects, data is collected

through field activities. For example, the Resilience Index Measurement Analysis (RIMA) is a quantitative index designed to measure resilience to food insecurity and how households cope with shocks and stressors. The index is calculated on the basis of primary data collected by interviewing households in the relevant countries, as well as secondary data provided by the World Bank and national statistics agencies.³¹ FAO also increasingly uses new technologies such as remote sensing to collect data (Box 4).

To facilitate the collection of accurate and objective data, FAO supports its Members' efforts to strengthen the capacities of their national offices responsible for agricultural data collection and the development of effective national statistical systems. FAO develops, promotes and implements standards, nomenclatures and methodologies aimed at enhancing the availability of reliable and objective data and international consistency and comparability of statistics across countries.

Box 5. The use of new technologies in the Global Forest Resources Assessment (FRA)

Every five to ten years since 1946, FAO has conducted a Global Forest Resources Assessment (FRA) to assess the state of national forests, monitor changes in areas under forest use and strengthen the information base for policy-making nationally, regionally and internationally.

In the past, the estimates of FRAs were largely based on national statistics and inventory reports, which contained detailed information on the forests of individual countries reported by each government. "However, differences among data sets from the various countries can be great owing to the methods applied, the terms and definitions employed and the currency of the information in the individual inventories. Despite adjustments made to accommodate these differences, uncertainties can still arise when statistics from different countries are compared".¹ To complement the national reporting and provide an independent picture of forest cover trends, FAO adopted remote sensing surveys as part of FRA 1990, FRA 2000, FRA 2010 and FRA 2015.

Recent FRA's surveys therefore rely on two sources of data: country reports and satellite imagery.

Country data is collected through the Collaborative Forest Resources Questionnaire (CFRQ). The CFRQ was developed by FAO with the Central African Forests Commission, Forest Europe, the International Tropical Timber Organization, the Montréal Process and the United Nations Economic Commission for Europe (UNECE). It is intended to reduce the reporting burden and increase data consistency across organisations, as well as to standardise definitions and timing of data collection.

Box 6. The use of new technologies in the Global Forest Resources Assessment (FRA)

Satellite imagery is collected through remote sensing technologies and subsequently reviewed by selected national forestry or remote sensing experts. For the FRA 2015, for instance, the global remote sensing survey was conducted with over 200 specialists from about 100 countries.

The FRAs are accessible through the FRA Remote Sensing Portal on the internet.

1. FAO (2002), FRA 2000 Pan-tropical Survey of Forest Cover Changes 1980-2000 – Methods and Implementation, *FAO FRA Working Paper 49a*, Section 1.

Many FAO treaties require their Parties to exchange information and provide data. For instance, Article V of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (the Compliance Agreement) requires the Parties to co-operate and exchange information and evidentiary material in order to identify any vessel engaging in activities undermining international conservation and management measures. Similarly, Article 17 of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGFRA) provides that “Contracting Parties shall co-operate to develop and strengthen a global information system to facilitate the exchange of information, based on existing information systems, on scientific, technical and environmental matters related to plant genetic resources for food and agriculture”.

In the legal domain, FAO maintains the FAOLEX database, a comprehensive online collection of national laws, regulations and policies on food, agriculture and natural resources.

Data collection is often conducted in collaboration with other actors. For example, the Agricultural Market Information System (AMIS), which is hosted by FAO, is a multi-agency platform launched by the Group of Twenty (G20) to enhance transparency in international food markets and to facilitate the co-ordination of policies in times of market uncertainty. AMIS assembles data on production, trade, utilisation and stocks of the four grains that are particularly important in international food markets, namely wheat, maize, rice and soybeans. It tracks current and expected future trends in food markets and, when detecting conditions that may affect food security (e.g. price volatility), warns policy makers and assists them in co-ordinating their response to such conditions.

Much of the data collected by FAO is freely accessible through online databases and publications.³² For example, statistical data measuring various agricultural factors (production, trade, food security, demography, prices, emissions, forestry, etc.) is available through the FAOSTAT online platform.³³ The FAO Statistical Yearbook assesses the state of agricultural resources (land, labour, capital and inputs) and food insecurity and malnutrition and provides key indicators to assess current trends and prioritise actions.³⁴

In addition to collecting data, FAO undertakes analyses in order, *inter alia*, to support evidenced-based decision-making and policy formulation. Thus, FAO conducts periodical assessments of the status of agriculture and natural resources and identifies existing needs and gaps. For instance, as mandated by COFI, the State of World Fisheries and Aquaculture (SOFIA) is published every two years, identifying non-fully exploited, fully exploited or overexploited stocks, assessing illegal, unreported and unregulated fishing, and measuring the trade and consumption of food commodities worldwide.³⁵ The State of Food and Agriculture (SOFA) has been published annually since 1947, and is a science-based assessment focusing each year on a selected topic of major relevance for rural and agricultural development and for global food security.³⁶ In addition to those analyses that it compiles itself, FAO collaborates with other entities in undertaking research and analysis. For example, the State of Food Insecurity in the World (SOFI) is jointly developed by FAO, IFAD and WFP.³⁷ This is an annual report that tracks progress towards ending food insecurity, measures problems in combatting hunger, and makes recommendations on how these can be addressed.

Typically, FAO's studies introduce new perspectives and recommend concrete solutions and best practices. For example, at the request of the Commission on Genetic Resources for Food and Agriculture (CGRFA), FAO regularly assesses the state of plant, animal, forest and water genetic resources worldwide, together with Global Plans of Action through which CGRFA members commit to take action to promote the conservation and sustainable use of genetic resources in the respective sector.³⁸

Voluntary IRC instruments

The Conference may “make recommendations to Member Nations and Associate Members, for consideration by them with a view to implementation by national action”; or “to any international organisation regarding any matter pertaining to the purpose of the Organization”.³⁹ The Technical Committees and the Statutory Bodies may recommend national, regional and international measures and actions and encourage their Members to implement them.

FAO is active in the development of international standards,⁴⁰ codes of conduct, good practices and principles that are voluntary, addressing many areas falling under the FAO mandate. While such voluntary IRC instruments may be quicker to negotiate because they do not create binding obligations, Members tend to give effect to them. As an organisation with almost universal membership, voluntary instruments that are unanimously approved carry weight, since they will normally reflect consensus on a given matter.

Furthermore, when developed through objective and science-based procedures, such as those in place for the Codex Alimentarius, standards have persuasive force. Created jointly with the World Health Organization (WHO), Codex has developed the Codex Alimentarius, a repository of food standards, guidelines, and best practices aimed at protecting human health and ensuring fair practices in food trade (see also the Case study of the World Health Organization). Codex is open to any Member Nation or Associate Member of FAO or WHO interested in international food standards. FAO and WHO jointly fund and provide the Codex secretariat. While not formally binding, Governments use Codex Standards in their national legislation, and the food industry applies them. Despite the soft law nature of Codex standards, they can be considered, to some extent, “hardened” through the obligation for WTO Members to “base their sanitary or phytosanitary measures on international standards, guidelines or recommendations, where they exist”, under article 3.1 of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement)⁴¹ The SPS Agreement specifically identifies the Codex Alimentarius Commission as a relevant standard-setting organisation in this regard (Art. 3.4).

Voluntary instruments can also provide the foundation on which binding instruments are developed. One such example is the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal Unreported and Unregulated Fishing (PSMA). The origins of this binding agreement lie in the Model Scheme on Port State Measures and the International Plan of Action to prevent, deter and eliminate IUU Fishing (IPOA-IUU). The development of the PSMA is further described in Box 5.

Except for Codex standards for which there is a formal procedure of drafting, negotiation and adoption,⁴² the process for the development of voluntary instruments is largely guided by practice. While the decisions to develop and to adopt an instrument is confined to the members of the relevant Governing or Statutory Body or the CFS, the consultation and negotiation process once the first decision has been taken may vary depending on the nature and scope of the instrument, the negotiating members and the experts and stakeholders involved in the consultation.

The relevant Governing or Statutory Body normally establishes the basic content of the future instrument and the principles that will apply, and identifies matters to be considered in the consultation and negotiation process. It also establishes an intergovernmental committee (IC) with limited composition which will lead the consultation and negotiation process.

One or more technical consultations will be convened with Member representatives and stakeholders to negotiate an initial draft. Depending on the scope of the instrument, consultations may be held in different countries and regions and may be open to stakeholders working at the international, regional, national or local level. For example, the VGGT and the Principles for Responsible Investment in Agriculture and Food Systems (RAI Principles) were developed by an Open Ended Working Group and based on a process of consultations carried out through regional workshops and electronic consultation, and including a wide variety of stakeholders (governments, UN agencies, CSOs, research institutions, private sector, etc.).

The IC reviews the draft instrument and the inputs provided by Members and stakeholders participating in the technical consultations. It then decides whether and when to submit the text to Governments, with a view to reaching an agreed text through intergovernmental consultations. The IC may convene additional technical and intergovernmental consultations as may be needed. Once there is an agreed text, it is normally reviewed and endorsed by consensus, and then submitted for approval to the Governing or Statutory Body that mandated the process to develop the instrument.

Binding IRC instruments

The Conference or the Council may, by a two-thirds majority of the votes cast, approve and submit to Member Nations international treaties concerning those matters concerning questions relating to food and agriculture.⁴³ As observed above, as a general principle, Article XIV treaties are only concluded when there is an intention to establish financial or other obligations going beyond those already assumed under the Constitution. In addition to establishing binding legal obligations, treaties may create mechanisms to develop and adopt binding decisions and measures.

Treaties concluded under Article XIV of the Constitution

The initiative to develop a new treaty is normally taken by the Conference or the Council. For example, the International Plant Protection Convention (IPPC) was adopted on the initiative of the Conference.⁴⁴ In

certain cases, a Technical Committee may initiate the development of a new treaty to be submitted to the Conference or the Council for approval. This was the case, for example, of the PSMA (Box 5).

The text of a treaty is normally developed through expert consultations, normally led by an IC with limited membership to guide the consultation and negotiation process. Other Members of the Organization, IGOs working in relevant fields, and NSAs may be invited to participate in such consultations in an observer capacity.

Once consensus is reached on a text by the IC, it is submitted to the Council Committees for review and, subsequently, to the Conference or the Council for approval.

The entry into force of treaties approved under Article XIV is subject to the deposit of formal instruments acceptance as provided in the treaty.

Box 7. The development of the PSMA

At its 27th Session in 2007, COFI acknowledged the urgent need for a comprehensive suite of port State measures, noting the strong support for the development of a new legally binding instrument on port State measures to combat illegal, unreported and unregulated fishing based on the Model Scheme and the IPOA-IUU. It established a framework for expert and technical consultations.

The *Expert Consultation to Draft a Legally-binding Instrument on Port State Measures* (Expert Consultation) was held in September 2007 in Washington D.C., United States of America, to prepare an initial draft of a legally binding instrument on port State measures. The Consultation was attended by 10 experts in their personal capacities and five resource persons.

The draft prepared by the Expert Consultation was the basis for negotiations in the *Technical Consultation to Draft a Legally-binding Instrument on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing* (the Technical Consultation), which was held at FAO Headquarters, Rome, Italy, in June 2008 and resumed in January 2009, in May 2009 and in August 2009. The Technical Consultation was attended by 92 Member Nations, one Associate Member, representatives from three UN specialised agencies, and observers from 20 intergovernmental and international non-governmental organisations. In March 2009, the 28th Session of COFI reviewed progress and considered the completion of the legally-binding instrument as a high priority.

In September 2009, the text of the PSMA was reviewed by the 88th Session of the CCLM and, subsequently, by the 137th Session of the Council, which transmitted the text to the Conference. The PSMA was approved by the FAO Conference at its 36th Session (November 2009) and entered into force on 5 June 2016.

Seventeen treaties have been approved under Article XIV of the Constitution and are in force, relating to animal production and health, fisheries, genetic resources for food and agriculture, and plant production and protection.⁴⁵ They have been developed over the life of the FAO (from 1948 to 2009). All but two of the Article XIV treaties establish intergovernmental bodies made up of representatives of all Parties and serving as mechanisms for dialogue and policy co-ordination.⁴⁶ All these intergovernmental bodies have advisory functions and may recommend specific measures and actions for implementation by their members in their respective sphere of application. Some of them may adopt binding regulatory instruments (see below).

Obligations most commonly included in Article XIV treaties involve: sharing information, surveys and research; surveillance, early warning systems and crisis management; and compliance assessment and settlement of disputes.

Sharing information, surveys and research

All Article XIV treaties require Parties to exchange information and co-operate for the effective implementation of the treaty. Some of them establish specific obligations for data collection and sharing. For example, the ITPGRFA establishes the Multilateral System of Access and Benefit-Sharing, under which the Parties share the genetic diversity stored in their gene banks, and, in return, have access to collections of gene banks under the direct control of other Parties.⁴⁷

Certain treaties impose obligations on the organs established by the treaty or on the Parties to it to conduct surveys and research. For example, under the Agreement for the Establishment of the Regional Animal Production and Health Commission for Asia and the Pacific (APHCA), States undertake to establish and maintain national research institutes or laboratories for the study of livestock productions problems and diseases. All treaties establishing fisheries management commissions vest them with the function of encouraging, recommending or undertaking training and research and development activities.

Surveillance, early warning systems and crisis management

Certain treaties concluded require Parties to establish and maintain mechanisms of control and surveillance. This is particularly important for the effective implementation of certain treaties.

For example, treaties concerning plant and animal protection establish mechanisms for the surveillance of plant and animal health and for early warning and emergency management in cases of disease or pest outbreaks. Thus, Parties to the IPPC must establish official national plant protection organisations responsible *inter alia* for the issuance of certificates certifying the conformity of consignments of plants and plant products with the applicable phytosanitary regulations. These national organisations assess plants and plant products, inspect consignments, and conduct any necessary disinfection or disinfection.

Having regard to the transboundary nature of desert locust swarms, and the need for co-ordinated action by concerned States, three treaties, each with a specific geographical scope establish mechanisms to warn and provide emergency assistance to Members experiencing desert locust outbreaks in their territories.⁴⁸ The regional commissions established under these treaties have advisory and managerial authority and their functions focus on monitoring and controlling the desert locust, assisting countries facing locust outbreaks, and maintaining emergency reserves of anti-locust equipment, insecticides and other supplies. The FAO Secretariat, through its Emergency Prevention Systems (EMPRES) – described below – assists the regional commissions in monitoring and promptly reacting to locust outbreaks. For this purpose, new technologies “have been introduced through the EMPRES programmes into national programmes, such as the Reconnaissance and Management System of the Environment of *Schistocerca* (RAMSES), [which provides] real-time transfer of field data, remote sensing, etc. These had contributed to steadily improving the quality and quantity of reports received [on the desert locust situation]”.⁴⁹

Compliance assessment and settlement of disputes

Some of treaties establish mechanisms to assess compliance of the Parties with the treaty. All treaties include mechanisms to resolve disputes between the Parties. These mechanisms are addressed in Chapter 3.

Binding measures adopted by bodies established under Article XIV treaties

Seven Article XIV Bodies are vested with the power to adopt legally binding decisions to fulfil their mandate.

The development of such instruments is normally initiated by proposals from one or more members of the Article XIV Body concerned, and the drafting, consultation and negotiation processes are conducted through subsidiary bodies. For example, a standards committee is normally responsible for co-ordinating negotiations, requesting expert advice, and

convening consultations. Certain Article XIV Bodies have established scientific committees to advise them on specific technical matters.

These binding measures are particularly significant in the context of Regional Fisheries Management Organizations (RFMOs).⁵⁰ RFMOs adopt binding regulatory measures to, *inter alia*, govern fishing methods and gears, prescribe minimum sizes for specified species, define protected species, and establish fishing seasons and the amount of total catch for each Party. Their regulatory role is, in fact, essential for the purposes of conservation and resource management. For example, as of June 2016, the General Fisheries Commission for the Mediterranean (GFCM) had adopted 40 binding recommendations and resolutions for fisheries conservation.

Box 8. The IPPC standard-setting process

Within the framework of the IPPC, the Commission on Phytosanitary Measures (CPM) has the authority to adopt International Standards for Phytosanitary Measures (ISPMs) binding on the IPPC Contracting Parties.¹

The IPPC Standards Committee, with the support of subsidiary technical bodies, leads the standard-setting process. Four technical panels on Diagnostic Protocols, Forest Quarantine, Glossary, Pest Free Areas and Systems Approaches for Fruit Flies and on Phytosanitary Treatments are responsible for developing draft standards on topics in their respective technical areas and advising the Standards Committee on scientific or technical matters.

The Standards Committee may establish additional expert working groups to draft standards on specific topics. These working groups are composed of experts nominated by the IPPC Members and representing a wide geographic area and having scientific skills and experience relevant for the subject of the relevant standard.

Standards elaborated by Technical Panels and Expert Working Groups are submitted to the Standards Committee, which submits it to the IPPC Members for consultation. Members' inputs are then considered by the Standard Committee, which may decide to submit the draft standard to the CPM for final approval.

1. See the IPPC 2015-2016 Procedure Manual – Standard Setting.

It is noted that some Article XIV Treaties establish mechanisms allowing Parties to opt out of specific binding measures. For example, the GFCM and the Indian Ocean Tuna Commission (IOTC) may adopt binding measures by a two-thirds majority vote of members present and voting. Such a measure is binding on all Parties. However, any Party may object within a specified timeframe from the date of notification of the measure and, in that

event, will not be bound by that measure. In the case of the GFCM, reasons must be provided for the objection and, as appropriate, proposals for alternative measures should be put forward. If objections are made by more than one-third of the Parties, the other Parties will be relieved of any obligation to give effect to that measure, although they can still decide to give effect to it.⁵¹

Crisis management

FAO is deeply engaged in crisis management, both at the institutional level (see the surveillance, early warning systems and crisis management established within the framework of Article XIV treaties above) and at the operational level. For example, the Food Chain Management Framework (FCC) is “FAO’s primary tool for action and in support of countries in the global governance of threats to the human food chain at all stages, from production to consumption”.⁵² This framework comprises three interrelated units. First of all, the Intelligence and Coordination Unit organises overall co-ordination within the FCC and provides long-term risk analysis, risk communication and advocacy. Then, the Emergency Prevention Systems (EMPRES) acts on prevention, early warning and early reaction across the entire food chain. EMPRES monitors transboundary threats affecting animal health (avian influenza, suine fever, ebola, etc.), plant health (desert locust, armyworm, fruit flies, etc.), and food safety (foodborne pathogens and chemical contaminations). Finally, the Emergency Response Unit aims to provide an adequate rapid-, medium-, longer-term response to food, plant and animal threat.⁵³ To enhance efficacy of FCC, a solid partnership with international, regional and local stakeholders is fundamental. Participation of research institutes ensures a high level of expertise for better reactivity and level of crisis analysis. Study of precedent crisis can be fundamental to improve prevention, preparedness and response.⁵⁴

Moreover, FAO and ILO have developed collaboration on emergency response and early recovery. This collaboration began within the framework of the meetings of the Inter-Agency Standing Committee’s Working Group on Early Recovery in 2005. Both agencies “are committed to livelihoods oriented early action to i) stop a situation deteriorating and before people resort to harmful coping strategies such as selling off assets, forced migration and sex working, where increased vulnerability and irreversible destitution occur; ii) provide urgent support to restore self-reliance thereby reducing the need for prolonged and expensive relief and iii) promote sustainable recovery in ways that reduce people’s vulnerability (i.e. do not recreate the precariousness that existed before the crisis and contributed to the severity of its impact)”.⁵⁵ Together, they notably conceived the livelihood assessment toolkit, which aims at “collecting information – at

community level and the existing livelihood groups – on people’s ability to make a living before and after sudden onset natural disasters such as floods, earthquakes and tsunamis”.⁵⁶

FAO also organises cash and voucher programmes which “play a critical role in response to crises or shocks when farmers and pastoralists no longer have the ability to purchase food, agricultural inputs or livestock because their assets have been damaged or depleted”.⁵⁷ Cash and voucher programmes “enable people to identify for themselves what their most pressing needs are and decide which goods and services they wish to purchase in local markets”.⁵⁸ These programmes also help farmers to “protect their livelihoods from future shocks (e.g. drought, illness, poor production), overcome cash shortages and improve their food security and nutrition”.⁵⁹ Practical guidelines have been provided to design and implement these tools.⁶⁰

Tools and mechanisms to ensure the quality of FAO IRC instruments and support implementation

A distinctive feature of FAO is the number of mechanisms and tools to ensure quality and support the implementation of its IRC instruments. Some mechanisms are established in the context of the Organization's Reviewed Strategic Framework, particularly its RBM Framework which promotes transparency and accountability, and facilitates the assessment of progress towards the achievement of its objectives. Statutory Bodies have also, either at the recommendation of the Governing Bodies, or on their own initiative, evaluated their performance and impact.

Mechanisms to assess the organisation's performance and the impact of its regulatory co-operation

The RBM Framework is composed of FAO's Vision, the Global Goals, the five SOs, a sixth objective on technical quality, knowledge and services, the Core Functions as the means of delivery, and the Functional Objectives for the enabling environment (Outreach Information Technology FAO Governance, oversight and direction Efficient and effective administration). It also includes cross-cutting themes of gender, governance and nutrition. The RBM cycle has five phases: planning, implementation, monitoring, reporting and evaluation (Figure 2).

The MTP and the biennial PWB set out outcomes, outputs and measurable indicators of achievement with targets, and the required resources. Outcomes are the changes in the country, regional or global enabling environment and in capacities available to achieve a specific SO. Outputs are FAO's direct contributions to the outcomes, and they result from the delivery of FAO's interventions at the national, regional and global levels, using both regular and extra-budgetary resources.

Figure 2. Corporate RBM Cycle

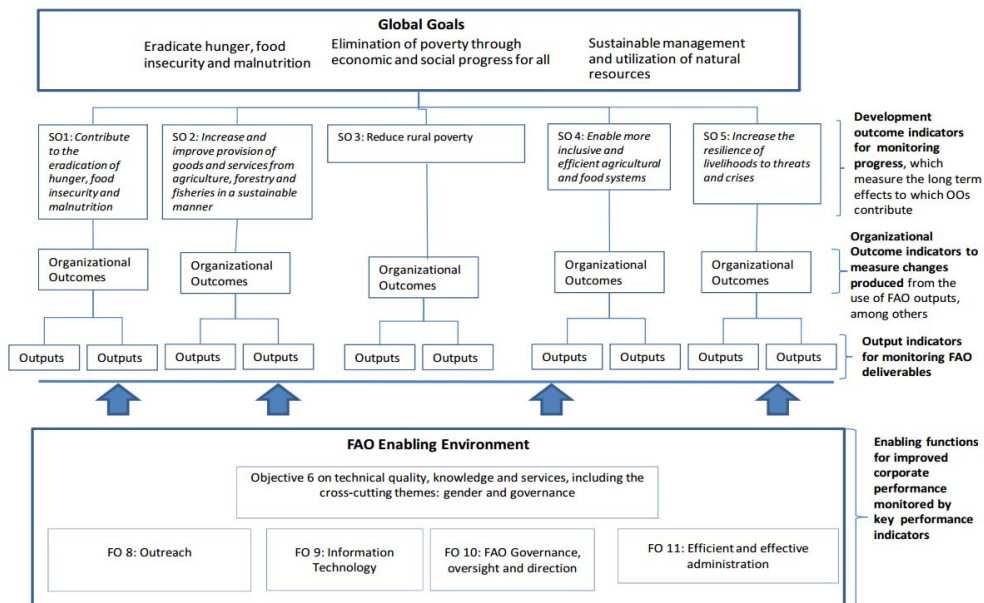


Source: Legal Office, drawing from the chart published on the FAO website: www.fao.org/about/strategic-planning/rbm/en/.

The RBM Framework also defines the indicators for the measurement of each objective, outcome and output. In 2014, a Corporate Baseline Assessment was conducted to establish the baselines for Outcome-level indicators through a survey conducted with FAO's Country Offices and partner institutions across the Strategic Framework. This was followed by an in-depth assessment for the end of 2015 and another one will take place at the end of 2017. The baseline data is used to assess changes at country level at the end of each biennium.

An end-of-biennium assessment is undertaken and its results are reflected in the Programme Implementation Report (PIR) for the biennium, the primary mechanism for reporting on performance during each biennium. The PIR is submitted to the Programme Committee, the Finance Committee and the Council for review. The PIR is then submitted to the FAO Conference for approval. The results of this analysis – weaknesses detected, lessons learnt and success stories – are taken into consideration in the development of the next PWB.

Figure 3. The RBM Framework



Source: Drawn from the FAO Programme Implementation Report 2014-15 (C 2017/8, p. 6), www.fao.org/3/a-mp989e.pdf.

Mechanisms to assess the status and performance of Statutory Bodies

There is no systematic or periodical mechanism to review the performance of Statutory Bodies. Statutory Bodies may, at the recommendation of the Governing Bodies, or on their own initiative, mandate their Secretariat or independent experts to evaluate their performance and efficiency. These evaluations often result in the adoption of decisions and recommendations to reform and enhance the structure and working modalities of these bodies. In some cases, evaluations may lead to the review, suspension or abolition of Statutory Bodies, as well as to the amendment, revocation or update of their IRC instruments.

Tools to ensure quality of FAO instruments

The quality of FAO's voluntary and binding instruments is ensured through various tools and mechanisms at various stages of the instrument's life. During the development phase, for instance, the scientific and technical validity of an instrument is ensured through preventive studies, *ex ante* risk

assessments and consultations with experts and stakeholders who have knowledge and experience in the relevant field. Once an instrument is adopted, it may be amended, revised or repealed, taking account of changing circumstances which may affect its validity or effectiveness.

Research, studies, and analysis

Both voluntary and binding regulatory instruments are developed on the basis of data collected and analysed, as well as research. Mechanisms have been established by FAO's Statutory Bodies to ensure that their IRC instruments are scientifically objective and sound and that they take into consideration the views and interests of all stakeholders concerned.

For example, in the area of human, animal and plant health protection, regulatory and voluntary instruments are developed based on *ex ante* risk assessments. These analyses assist Members to weigh policy alternatives, and assess prevention and control options. Codex standards, for instance, are developed based on risk analyses conducted by Codex's specialised subsidiary bodies and the risk assessments and scientific advice developed by the Joint FAO/WHO expert committees and/ or special expert consultations.

Box 9. Principles for Risk Analysis

In accordance with *Working Principles for Risk Analysis for Application in the Framework of the Codex Alimentarius*, risk analyses must be *inter alia* documented fully and systematically in a transparent manner and should be based on all available scientific data. They should seek and incorporate data from different parts of the world, including that from developing countries, and be based on realistic exposure scenarios. Codex also adopted specific risk analysis principles for certain specialised committees and subject matters.¹

1. FAO, Codex Alimentarius Commission, Procedural Manual.

Along the same lines, the binding measures adopted by RFMOs for fisheries management and conservation are based on the assessment of the size and state of stocks exploited. For this purpose, RFMOs have established mechanisms for the collection of data, as well as permanent working groups to analyse data collected and provide scientific advice.⁶¹

Expert stakeholder engagement in IRC

FAO recognises that the achievement of its mandate requires engagement of different stakeholders. Accordingly, it partners with certain NSAs whose functions or activities are relevant to its mandate. In 2013, the FAO Council adopted the Strategy for Partnerships with Civil Society Organisations (CSOs)⁶² and the Strategy for Partnerships with the Private Sector.⁶³ Pursuant to these Strategies, collaborations are entered into under strict conditions, so as not to compromise FAO's neutrality and impartiality. All such collaborations are subject to a risk assessment process, as well as monitoring and evaluation.

Support to policy dialogue and norms and standard-setting

While stakeholders and experts will usually have some involvement in the development of binding and voluntary IRC instruments, and the Members have recognised their consultative role, the negotiation and final approval of these instruments lies entirely with the Members of the relevant Governing or Statutory Body. Decision-making power is reserved for Members in order to safeguard FAO's intergovernmental nature, its independence and impartiality in decision-making.⁶⁴

Article XIV Bodies and the Codex have established procedures for the development of regulatory instruments, which include scientific committees and mechanisms for stakeholder consultations. The GFCM's Scientific Advisory Committee on Fisheries (SAC) and the Scientific Advisory Committee on Aquaculture (CAQ), for instance, "provide independent advice on a technical and scientific basis to facilitate the adoption of recommendations" concerning the sustainable management of fisheries and aquaculture, and the assessment of biological and ecological implications under different management scenarios.⁶⁵ The CAQ, in particular, carries out its advisory functions in consultation with the GFCM Aquaculture Multi-stakeholder Platform, a forum for dialogue and exchange of experience, information and knowledge among national administrations, CSOs, researchers, farmers and farmers' organisations, and other interested private and public stakeholders.⁶⁶ Similarly, the IOTC relies on the advice provided by its Scientific Committee, as does the CPM on its expert working groups and technical panels, and the Codex on its subsidiary committees.

The CFS has developed very unusual mechanisms for collaboration with CSOs and the private sector, in particular relating to their contribution to the development of IRC instruments (Box 8).

Box 10. The Civil Society Mechanism and the Private Sector Mechanism of the CFS

Participation of CSOs and the private sector in the meetings and activities of the CFS is facilitated through co-ordination mechanisms: the Civil Society Mechanism (CSM) and the Private Sector Mechanism (PSM).

The CSM gathers together representatives from CSOs, NGOs and their networks whose work is relevant to food security and nutrition. They are organised in 11 constituencies: smallholder farmers, pastoralists, fisherfolks, indigenous peoples, agricultural and food workers, landless, women, youth, consumers, urban food insecure and NGOs. The PSM represents private sector associations, private philanthropic organisations and other private stakeholders active in areas related to CFS's mandate.

CSOs and the private sector, through the CSM and PSM, co-ordinate and represent their positions and interests in the CFS. The CSM and the PSM participate in the sessions of the CFS, where they may intervene in the debates, contribute to the preparation of meeting documents and agendas, and formulate and circulate documents and proposals. The PSM and CSM are members of the CFS's Advisory Group, which assists and advises the CFS Bureau during the intersessional period.

While they may be invited to participate, there are no formal established mechanisms for expert and stakeholder consultations for the development of voluntary IRC instruments. Based on practice, consultations with IGOs and, if deemed appropriate by Members, NSAs may be held at the initial stages of development. Furthermore, when drafting or negotiating an instrument, the negotiating States may request expert advice.

Technical co-operation

FAO also co-operates with relevant NSAs, particularly CSOs, on activities in the field “to design, implement and monitor quality and sustainable local initiatives, programmes, projects and emergency responses”.⁶⁷ This collaboration includes knowledge sharing activities, capacity development projects, awareness-raising campaigns and resource mobilisation.

Monitoring and compliance assessment mechanisms

Unlike many IOs (OECD, 2016), FAO may be engaged in the assessment of Members' compliance with Article XIV IRC instruments. Article XIV treaties frequently call for voluntary or mandatory reporting

and, in some cases, establish mechanisms to review implementation, periodically or on request.

In some cases, binding measures adopted by Article XIV Bodies require Members to monitor, and report on, the actions (national laws, regulations, policies, etc.) undertaken to implement them. This is, for instance, the case for the GFCM, the IOTC and the ITPGRFA, which require Members to periodically (normally on an annual or biennial basis) submit questionnaires. This information is included in the reports of the relevant Statutory Body/compliance committee, which are publicly available on the website of the relevant Statutory Body.

Also, some instruments provide that Members can report alleged breaches of binding measures by other countries. For example, the Members of the IOTC annually transmit a list of vessels alleged to have been carrying out IUU fishing.

Two of these instruments – namely, the GFCM and IOTC agreements – establish formal processes, such as intergovernmental compliance committees to review cases of alleged non-compliance by the Members and mandated to adopt recommendations aiming at resolving a situation of non-compliance (Box 9).

Box 11. The GFCM process and measures to resolve situations of non-compliance

The GFCM Compliance Committee identifies cases of non-compliance under the GFCM Agreement and international law (for example, breach or lack of compliance with conservation and management measures), reviews all available information on the status of implementation of GFCM decisions, including information submitted by non-Members, and mandates the GFCM Secretariat to consult any source of verifiable information.

When the GFCM Compliance Committee identifies a case of non-compliance, the GFCM Executive Secretary must inform the State in question in writing, asking for further clarifications. As observed by the Compliance Committee, “the sole transmission of the letters had proven to be enough deterrent for the targeted countries to act and resolve the situation of non-compliance”.¹ The Compliance Committee evaluates the response of the Party and decides whether to dismiss the case or take further measures.

The Compliance Committee must report cases of prolonged and unjustified non-compliance to the GFCM, which may take corrective measures or non-discriminatory market-related measures. Corrective measures consist of “technical assistance and capacity building programmes to address the main problems of the relevant Contracting Party or Cooperating non-Contracting

Box 12. The GFCM process and measures to resolve situations of non-compliance (*cont.*)

Party” or “derogations to the implementation of given recommendations, subject to the adoption of a multiannual process that shall identify remedies to non-compliance applying to relevant Contracting Parties and Cooperating non Contracting Parties to ensure its full implementation”.² Non-discriminatory market-related measures may be taken “against Cooperating non-Contracting Parties and non-Contracting Parties, consistent with international law, to monitor transshipment, landings and trade with a view of preventing, deterring and eliminating illegal, unreported and unregulated fishing including, where appropriate, catch documentation schemes”.³ To date, no measures have been taken in the context of the GFCM.

1. Compliance Committee of the GFCM, “Intersessional Meeting of the Compliance Committee”, 29-30 January 2015, paragraph 7.
2. GFCM Rules of Procedure, Rules XIX.1(a).
3. GFCM Rules of Procedure, Rules XIX.1(b).

With respect to the implementation of voluntary instruments, tools to monitor the implementation are also envisaged although there is no legal obligation to implement them or to provide information. For example, according to Article 4 of the Code of Conduct for Responsible Fisheries (CCRF), FAO must regularly report to COFI on the implementation of the Code. A web-based biennial questionnaire is periodically submitted to Members, regional bodies and NGOs working in the fisheries and aquaculture sector, to collect information on the status of implementation of the CCRF, the four International Plans of Action (IPOAs), and the Strategy for Improving Information on Status and Trends of Capture Fisheries (STF).

Dispute settlement mechanisms

A dispute settlement mechanism is generally provided for in FAO’s legally binding instruments. Article XIV treaties establish modalities to settle disputes arising from their interpretation or implementation.

According to the Principles and Procedures which should Govern Conventions and Agreements Concluded under Article XIV and XV of the Constitution, “[e]ach convention and agreement (...) shall contain a suitable provision regarding its interpretation and settlement of disputes. Among alternative procedures for settlement of disputes are conciliation, arbitration, or reference to the International Court of Justice. The nature of the provision

for settlement of disputes should be determined in the individual convention or agreement by the character and objective of the particular instrument involved”.⁶⁸

Most of Article XIV treaties expect the Parties to try to resolve their disputes primarily through the Article XIV Body. If the dispute is not settled by the latter, the disputing Parties refer their dispute to a conciliation committee. The results of a conciliation procedure, while not binding, should constitute the basis for renewed consideration of the matter by the disputing Parties. Most of the treaties also establish that, if the dispute is not settled through conciliation, it may be referred to the International Court of Justice.⁶⁹ There has, to date, rarely been recourse to these mechanisms.

Technical support for the implementation of IRC instruments

FAO has developed a variety of methodological tools which are publicly available to support the effective implementation of its IRC instruments. These tools are not only useful in the process of developing national policies and legal frameworks for implementation, but also to measure progress made in implementation. FAO also supports its Members to enhance their participation in IRC and develop their capacity to implement IRC instruments through a variety of tools.

Technical and legal assistance to its Members

FAO provides technical and legal assistance to its Members on request on a variety of matters, including plant protection and production, animal health and production, food safety, agribusiness development, fisheries and aquaculture, forestry, biodiversity and natural resources management. These activities are funded through both assessed and voluntary contributions. Box 10 provides an example.

FAO is one of the few IOs to have a dedicated Development Law Service in the Office of the Legal Counsel. This Service provides assistance in the development of policies, legislation and other regulatory measures. It works in multi-disciplinary teams comprising FAO’s technical departments, regional and country offices, and involves national and international legal experts in the development process. It strives to deliver its assistance through participatory processes, involving not only Governmental authorities, but also other stakeholders in preliminary consultations. This approach is intended to ensure that the support provided suits the particular circumstances of the country or region, increases the understanding of the legal frameworks among those affected and, consequently, contributes to the implementation of the legal instruments.

Box 13. The Standards and Trade Development Facility (STDF)

The STDF was established by FAO, WHO, OIE, the World Bank, and the WTO (the founding partners) to support developing countries in building their capacities to implement international sanitary and phytosanitary standards, guidelines and recommendations as a means to improve their human, animal and plant health status and ability to gain and maintain access to markets. This global partnership acts as both a co-ordinating and a financing mechanism. It is a platform for the exchange of information and experience and identification and dissemination of good practices. As a financing mechanism, the STDF provides grants for projects and supports project formulation.

Methodological tools

FAO also develops methodological tools to provide guidance on the implementation of IRC instruments. This guidance is normally aimed at, *inter alia*, Governmental agencies, CSOs, academic and training institutions. For instance, the Right to Food Methodological Toolbox is a practical aid to assist interested stakeholders in the implementation of the Right to Food Guidelines. It includes analytical, educational and normative tools that offer guidance and hands-on advice on the practical aspects of the right to food. A wide range of topics such as assessment, legislation, education, budgeting and monitoring are covered in this Toolbox. It encompasses a variety of instruments:⁷⁰ from the *Guide on Legislating the Right to Food* to *Methods to Monitor the Human Right to Adequate Food* or the guide *Budget work to Advance the Right to Food*. Two examples are provided in Boxes 11 and 12.

Box 14. Risk Based Imported Food Control Manual

The FAO Manual on Risk Based Imported Food Control aims to assist authorities to improve the effectiveness of controls over imported food. It addresses different approaches to managing risks related to imported food and provides concrete illustrations of the various ways in which the standards established by the Codex Alimentarius Commission can be implemented. A chapter on legal and institutional aspects of food import control introduces the main legal principles that apply to food safety legislation, with a focus on import control legislation. It also highlights the main considerations for drafting regulatory frameworks for imported food control. The roles and responsibilities of the different public (central and decentralised bodies) and private players in an import control system are also explored.

Box 15. Examples of methodological tools for the VGGT

The technical guide on Responsible governance of tenure and the law: a guide for lawyers and other legal service providers addresses the linkages between the VGGT and binding rules of international law, as well as questions concerning legitimate tenure and the professional responsibilities of lawyers and other legal service providers. It reviews the law making process, including the conduct of legal assessments, implementation of laws and dispute resolution.

The Legal Assessment Tool for gender-equitable land tenure is a tool to capture gender-equitable land tenure. It is designed to measure the extent to which the legislation of a country fosters gender-equitable land tenure, drawing upon VGGT and other international instruments.

Training programmes

In the context of delivery of the technical assistance outlined above, FAO will often provide training, including train-the-trainer activities. For example, legal assistance projects normally include capacity-building activities such as the training of national lawyers in drafting processes and techniques with particular focus on specific IRC instruments and their requirements.

Training is, in particular, provided to those who will play a significant role in implementing the legal norms, but who are not legally trained themselves. For example, in the field of fisheries and aquaculture, FAO delivers training on selective fishing gear, by-catch reduction and sustainable fishing methods to fishers and fish farmers, resource managers and policy-makers to improve production, conservation and policy-making in the fisheries and aquaculture sector.

Box 13. PCE Facilitators Training

The PCE, or Phytosanitary Capacity Evaluation, is a management tool designed to help a country to identify both strengths and gaps in its existing and planned phytosanitary systems. The PCE generates information on the phytosanitary status and regulatory capacity of an IPPC member country. The IPPC recommends that countries involve trained facilitators to assist them in undertaking the PCE.

In 2016, the IPPC Secretariat began a series of training events for PCE Facilitators, aimed strengthening the understanding of the PCE modules developed by the IPPC and their application. These training events bring together technical experts and legal experts to develop understanding between differing fields of expertise and identify opportunities for mutual support.

While some training can address a particular sector covering a range of IRC instruments, some may be specific to a particular instrument, as illustrated in Box 13.

Financial assistance

In some cases, the effective participation of countries in the development of IRC instruments and their implementation may be restricted due to financial constraints. To address this situation, some Statutory Bodies have established special trust funds to support the participation of developing States in IRC processes and to assist them in the implementation of the IRC instruments (e.g. the ITPGRFA). These financial mechanisms are particularly relevant where effective implementation requires the availability of specialist equipment. This is the case, for example, of the PSMA (Box 14).

Box 14. Financial assistance for the implementation of the PSMA

To implement the PSMA, financial implications arise from activities associated with the conduct of inspections, including but not limited to, the training of port inspectors, the provision of equipment for inspectors, and the preparation of inspection manuals to provide guidance to inspectors. In addition, each State is required to maintain a genuine link and exercise effective control over its vessels through various means, which could include satellite vessel monitoring equipment and long range identification and tracking systems.

To assist developing States in the implementation of the Agreement, Parties undertake to provide technical assistance to them either directly or through FAO or other international institutions.

Furthermore, Parties shall establish a funding mechanism to support developing countries in “a) developing national and international port State measures; b) developing and enhancing capacity, including for monitoring, control and surveillance and for training at the national and regional levels of port managers, inspectors, and enforcement and legal personnel; c) monitoring, control, surveillance and compliance activities relevant to port State measures, including access to technology and equipment; and d) ... with the costs involved in any proceedings for the settlement of disputes that result from actions they have taken pursuant to this Agreement” (PSMA, Article 21).

Assessment of the impact and success of regulatory co-operation through FAO

Given the wide scope of FAO's areas of competence, the many areas of regulatory co-operation, and the large number of FAO voluntary and binding instruments, this assessment does not address impacts and successes in detail.

As a result of the fundamental reform that was effected through the IEE and the IPA, FAO is fortunate to have in place a mechanism that provides data to assess its performance; the RMB Framework described above, of which the PIRs – the reports submitted to each Conference on the Organization's performance – are a fundamental component. The PIRs identify initiatives that have been successful, and where adjustments may be needed in the Organization's planning and implementation to strengthen performance. The PIRs measure the performance of the Organization as a whole – both its Members and its secretariat – against objective, defined indicators. The assessment in this case study draws upon the information in the PIRs covering the period 2010 to 2015.

The assessment highlights some of the impacts and successes, as well as a few challenges faced by FAO in providing its Members a platform for co-operation and in setting the global standards for food and agriculture. In particular, it highlights not only the importance of holistic and multi-disciplinary approaches, involving the relevant (including non-governmental) stakeholders, the importance of providing appropriate technical assistance, policy guidance and methodological tools to facilitate adherence to, and implementation of, IRC instruments (be they binding or not), but also the gap in the availability of data to support evidence-based decision-making.

Overview of FAO's performance in IRC

The review of FAO's performance has shown that there is no single action that will on its own strengthen IRC. No instrument can be addressed in isolation, and holistic strategies that cover all relevant areas falling under FAO's competence have shown to be more effective and useful to Members. Having regard to the fact that, from a practical perspective, and the

traditional allocation of responsibilities to institutions at the national level, such approaches more closely address the actual circumstances and needs of the Members. Recognising that these inter-linkages exist, a cross-sectoral and multidisciplinary approach is required to strengthen IRC, improve their quality and implementation.

Thus, as identified in the PIR 2012-13, to support the sustainable management and use of fisheries and aquaculture resources,

“FAO’s strategy on fisheries and aquaculture had six elements: strengthen the application of global standards such as the Code of Conduct for Responsible Fisheries (CCRF); establish a robust system of international governance of fisheries, in particular through Regional Fisheries Bodies; improve the effectiveness of the management of capture fisheries; increase the yield and sustainability of aquaculture; improve the safety and efficiency of fishing practices; and increase the profitability of the post-harvest exploitation of fish catches, in particular through trade.

The main focus of FAO’s work under this Organisational Result was to support countries to adopt the provisions of the Code of Conduct on Responsible Fisheries and similar international agreements; develop associated international guidelines and policy instruments; and strengthen the generation of statistics and other monitoring of the fishery and aquaculture sector.” (PIR 2012-13)⁷¹

Similarly, with respect to the VGGT:

“Following the endorsement [of the VGGT] by the Committee on World Food Security, FAO worked closely with partners to establish a programme to support their application at global, regional and country levels. The implementation programme consists of five pillars: awareness raising, capacity development, partnerships, support to countries, and monitoring and evaluation. Since the Guidelines were approved, FAO has developed three technical guides and an e-learning course on responsible governance of tenure. It also held 11 regional workshops with 640 regional participants representing 140 countries. FAO is currently targeting technical advice and support to 17 countries to help build the structures and skills necessary to successfully implement the Guidelines.” (PIR 2012-13)⁷²

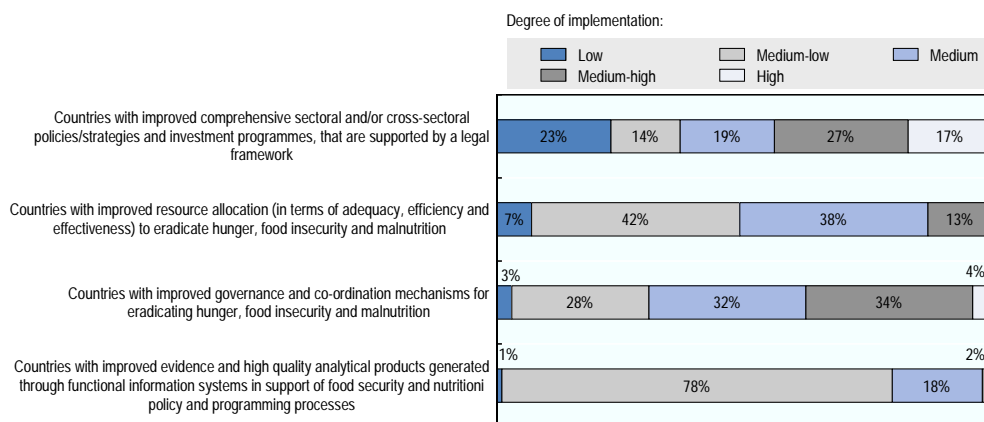
The integrated cross-sectoral and multidisciplinary approach has demonstrably had a positive impact at the national level, as reflected in the PIR 2014-15 and in Box 15:

“Countries are increasingly adopting or improving the design of existing comprehensive sectoral and/or cross-sectoral policies, strategies and investment programmes that are supported by a legal framework in the context of food security and nutrition. At the end of 2015, 44% of countries scored medium-high to high against this indicator, compared to 42% at the beginning of 2014. Qualitative data indicates that various countries adopted or revised policies, programmes or legislation addressing food security and nutrition challenges during 2014-2015 with the active support of FAO, for example Bangladesh, Bolivia, Cape Verde, El Salvador, Nepal, Niger or Sierra Leone”. (PIR 2014-15)⁷³

Box 15. The integrated approach to the VGGT: The example of Sierra Leone

“As a direct result of FAO’s support during 2014-15, Sierra Leone has been preparing a set of coherent policies, strategies and draft laws (the National Land Policy, General Registration Act, Fisheries Policy and Development Strategy, Forestry Act and National Action Plan for community-based forestry) all consistent with the Voluntary Guidelines on the responsible governance of tenure in the context of national food security. The preparation process to-date included multi-stakeholder processes and addressing gender considerations. FAO’s technical support, including work directed to awareness raising and capacity development, was critical for the establishment of an institutional framework that has been formalised by the Government to promote dialogue between all relevant stakeholders and sectors”.⁷⁴

Figure 4. Outcome indicators measuring the contribution to the eradication of hunger, food insecurity and malnutrition



Source: PIR 2014-15, C 2017/8, p. 14.

The PIRs indicate that FAO's role in promoting global governance mechanisms has been strengthened through decentralisation, as it is able to support the Members more effectively in their implementation as a consequence of its field presence, as reported in the PIR 2014-15:

“[T]he indicator value for the Output on legal frameworks far exceeds the biennial target. This is mainly due to the emergence of new opportunities at country level for work on land tenure, small-scale fisheries and right to food in the context of national food security. While strong support has been provided to negotiation of guidelines and other instruments at global level, there is much scope for further intensifying efforts to translate these instruments into national policies, programmes and legal frameworks through inclusive and evidence-based policy dialogue”. (PIR 2014-15)⁷⁵

Furthermore, collaboration with other global and regional IGOs, as well as other stakeholders, has enhanced the quality of the IRC instruments, and the support for their effective implementation. As reported in the PIR 2014-15:

“The quality and consistency of FAO's contribution to selected global governance mechanisms has been improved, thanks to a corporate strategy for engagement with other UN system agencies at global, regional and country levels, and guidance and co-ordination for participating in, and contributing to UN system-wide interagency technical task teams and intergovernmental processes.” (PIR 2014-15)⁷⁶

The importance of effective collaboration with regional organisations is, in particular, considered to be a significant factor in strengthening IRC at all levels, as reported in PIR 2014-15:

“Partnerships with strategic investment partners proved to be a key success factor in those instances where FAO was able to translate its strong role in providing a platform for negotiation of guidelines and other policy instruments at global level into tangible reforms of national policies, programmes and legal frameworks at country level. For example, the EU-FAO partnership under the [Food and nutrition security impact, resilience, sustainability and transformation] initiative is a promising step and example to follow in this direction; and the Zero Hunger Challenge Regional Initiatives have included action through [the Community of Latin American and Caribbean States] and the African Union, demonstrating the potential to leverage the capabilities and reach of Regional Economic Integration Organizations and Commissions to achieve coherent results in multiple country contexts”. (PIR 2014-15)⁷⁷

The engagement of NSAs has also had positive impacts, as shown in the PIR 2014-15.

“Results in the domain of governance, co-ordination mechanisms and partnerships for food security and nutrition are according to plan. The excellent progress made at global and regional level during the biennium is gradually translating in progress at country level, especially in the recognition of the role of civil society and the private sectors in the national food security and nutrition governance mechanisms. However, more investment and direct engagement with other UN agencies is needed to strengthen accountability and grievance mechanisms at national and local levels, including advocacy for the introduction of legal provisions on accountability mechanisms and developing stakeholder capacity for their application”. (PIR 2014-15)⁷⁸

Collection, analysis and dissemination of data and policy guidance

The development of appropriate methodological tools, combined with the dissemination of information, technical assistance and the delivery of training programmes, have been a significant factor in supporting the development and implementation of IRC instruments. To cite just one example relating to the IPPC, the PIR 2010-11 reported:

“Substantial progress was made in the development and implementation of International Standards on Phytosanitary Measures – under the International Plant Protection Convention (IPPC) with 13 new standards adopted during the biennium. To facilitate the implementation of the standards, the IPPC Strategy for National Capacity Development was adopted; more than 50 countries were assisted in 2010-11 through regional/national projects to develop their phytosanitary capacities while others benefited under global projects. Also, the Implementation Review and Support System was launched; the official IPPC website was substantially refurbished to facilitate information exchange and communication with other stakeholders”. (PIR 2010-11)⁷⁹

However, the availability of data to support evidence-based decision-making, with a view to strengthening the development and implementation of policies, needs further efforts. As reported in the PIR 2014-15:

“Although the majority of countries (69%) use statistics extensively in policy-making processes, there are still important weaknesses that hamper progress in evidence-based decision-making in planning and management of the agricultural sectors and natural resources

towards sustainable agriculture production systems. Furthermore, they have not improved in their provision of global data collection on agriculture and in the use of statistics for decision-making. For instance, 92% of countries as at end 2015 do not produce marginal Environmental Economic Accounts related to the assessment of agriculture conforming to the [System of Environmental Economic Accounting for Agriculture] standards”. (PIR 2014-15)⁸⁰

Methodological tools have strengthened IRC in various areas. By way of example, the PIR 2014-15 reported the positive effect of metrological tools in strengthening food security and nutrition policies, strategies and legal frameworks as follows:

“Overall, results in the domain of evidence-based decision-making are on track. The results on monitoring and analysis of food security and nutrition situation are mostly due to the allocation of extrabudgetary support for developing capacity to apply some of FAO’s key normative products like the Integrated Phase Classification at country level. While progress has been made on the mapping and analysis of policies, programmes and legislation relevant to food security and nutrition and on the evaluation of their impact on food security and nutrition, more support is needed at country level, including for making sure that the results of food security and nutrition analysis are effectively used by decision-makers”. (PIR 2014-15)⁸¹

However, it is also clear that further efforts are needed in this regard. The importance of ensuring that methodological tools actually respond to the needs of the countries has been highlighted. As reflected in the PIR 2014-15:

“The 2015 Evaluation ... found that FAO’s broad range of knowledge products and services largely respond to the Organization’s mandate and member countries’ requests, and that several, such as the statistical databases, are widely recognised for their technical excellence. However, it also found that additional effort should be made to better tailor the products (including FAOSTAT) to the specific needs of their target audiences to facilitate access, including language coverage aspects. FAO is also identifying new technology and more modern and flexible ways to collect data to reduce the burden on countries. This is a particularly strategic issue considering the increased statistical requirements to support implementation of the SDGs”. (PIR 2014-15)⁸²

The use of new technologies may assist in this regard and provide important opportunities to strengthen capacities to support IRC, as well as to facilitate the collection of the data necessary to support evidence-based decision-making. They have the potential to provide cost-efficient means of making specialist technical information and guidance widely available. This was identified in the PIR 2010-11, where it was observed that the “main lessons learnt from FAO’s work on creating an enabling environment for markets to improve livelihoods and rural development are: (...); b) The use of electronic platforms helps in the cost-effective diffusion of training and technical information” (PIR 2010-11).⁸³ This conclusion was confirmed in the PIR 2014-15, which reported that “web-based applications, whether e-learning or resource facilities such as [the Access to Global Online Research in Agriculture platform] or [Agricultural Information Management Standards platform] are a highly cost-effective means of making knowledge on agriculture, food security and nutrition more widely available” (PIR 2014-15).⁸⁴

Voluntary IRC instruments

The PIRs confirm that the effective participation of Members in the development of standards, codes of conduct, good practices and principles has increased. The subject-matter of a voluntary instrument will influence the level of participation in its development. Thus, an instrument addressing an area of particular global concern will normally secure a higher level of engagement in its development as, for instance, in the case of Codex, the PIR 2010-11 reported:

“The fundamental role of Codex Alimentarius in global regulation of food safety continues to drive international interest in ensuring effective participation of developing countries in the Codex Alimentarius Commission, as well as the timely availability of independent scientific advice to underpin decisions on standards taken in the Commission”. (PIR 2010-11)⁸⁵

However, as also reported in the PIR 2010-11, another significant factor appears to be the availability of technical assistance to countries to strengthen their capacities to participate effectively.

“FAO continued its focus on strengthening the capacity of developing countries to participate effectively in Codex. The nature of the assistance, however, is changing as countries’ needs evolve: there is growing recognition on the part of developing countries that their participation needs to start from the provision of data on which risk assessments are made if their countries’ situations are to be

truly reflected in the resulting standards. FAO continued to develop the tools and programmes to support this evolution. FAO also maintained its commitment to optimize the utilization of the Codex Trust Fund, which it manages jointly with WHO, in order to achieve the stated objective of enhanced participation of developing countries. Development of a new framework for monitoring and evaluation of its impact was initiated”. (PIR 2010-11)⁸⁶

The special focus on capacity-building to strengthen effective participation has had positive results, as reported in the PIR 2014-15:

“The percentage of countries that effectively participated in international standard setting under the auspices of Codex and the International Plant Protection Convention (IPPC) grew to a higher than projected level of 16.8% at the end of 2015, confirming the effectiveness of FAO’s capacity-building support”. (PIR 2014-15)⁸⁷

The quality of voluntary IRC instruments has also been strengthened by ensuring that they do not become outdated, and are revised – or new instruments developed – in light of, and to address, new scientific knowledge and emerging issues. The availability of reliable, comprehensive and objective information and scientific data also appears to be key in facilitating negotiations. Thus, the PIR 2014-15 reported:

“FAO supported the formulation of new and revised international standards for food safety and quality and plant health through providing the Secretariats for the International Plant Protection Convention (IPPC) and Codex, providing scientific advice to support setting of food standards, and enhancing the capacities of developing countries to participate effectively in IPPC and Codex standard setting processes. Thirty new issues were considered, 69 draft standards were progressed and 35 new standards were adopted in food safety, quality and plant health. Through sharing personnel, expertise and experience, Codex and IPPC continued to co-operate closely in the development of online systems to improve the capacity of all Members to participate more effectively in the intergovernmental negotiations”. (PIR 2014-15)⁸⁸

Table 1. **Output indicators measuring the development and implementation of IRC instruments in food safety, quality and plant health**

Indicator	Target (end 2015)	Actual (end 2015)	Achieved
Number of new or revised international standards in food safety, quality and plant health:			○
• <i>New issues considered</i>	42	30	
• <i>Draft standards progressed</i>	56	69	
• <i>New standards adopted</i>	30	35	
Number of trade related agreements on which evidence, capacity development or for a for a dialogue have been provided by FAO	7	18	○
Number of FAO market information products whose usage increased	8	17	○
Number of countries and/or regional bodies provided with FAO support to design and implement policies and regulatory frameworks for plant and animal health:			○
• <i>Plant health</i>	134	147	
• <i>Animal health</i>	25	30	
• <i>Food control</i>	175	155	
Number of institutions benefiting from FAO support to formulate and implement strategies and to provide public goods that enhance inclusiveness and efficiency in agrifood chains	60	97	○

Achievement: ○ Fully (>75%) □ Partially (50% to 75%) △ Not achieved (<50%)

Source: PIR 2014-15, C 2017/8, p. 30.

Binding IRC instruments

As with voluntary IRC instruments, the provision of appropriate technical assistance, policy guidance and methodological tools appears to have strengthened adherence to, and implementation of, binding IRC instruments (by way of example, Box 16 on ITPGRFA).

Box 16. Plant genetic resources and the ITPGRFA

“FAO advanced the management of plant genetic resources during the biennium [2012-13] at three levels: identifying and promoting international standards through the International Treaty on Plant Genetic Resources for Food and Agriculture; assisting countries to develop national strategies on plant genetic resources standards, consistent with the framework established by the FAO

Box 16. Plant genetic resources and the ITPGRFA (*cont.*)

Council in 2011 under the Global Plan of Action; and helping build private and public sector capacities related to the effective management of plant genetic resources, such as plant breeding, seed systems and biotechnology and biosafety.

Since 2011, the number of Parties to the International Treaty on Plant Genetic Resources for Food and Agriculture increased by 6 to 131. Through 19 projects, FAO supported 33 countries across Asia, Africa, the Near East and Central and South America to collect and conserve seed varieties. FAO assisted 17 developing countries to develop national strategies, seed sector policies and capacity for the collection and conservation of plant genetic resources. One result is that there are now 73 countries with National Information Sharing Mechanisms to monitor progress in the management of these resources”.

However, while such efforts have enhanced adherence to binding instruments, the translation of international obligations into national laws and policies will require further efforts, as reflected in the PIR 2014-15:

“Good progress was made by countries in endorsing or adopting international and regional instruments for sustainable agricultural production systems with a proportion of 53% of countries scoring high or medium-high against the indicator measuring the level of commitment through ratification of FAO binding instruments or official declaration for implementation of FAO non-binding instruments. ... However, only 26% have integrated at least one provision of FAO-hosted international instruments into their national legal frameworks and more efforts are required in this area”. (PIR 2014-15)⁸⁹

The Article XIV treaties and their organs must respond to current and emerging issues and, therefore, the importance of keeping them under review has been highlighted in the PIR 2012-13.

“During the biennium, FAO strengthened governance of fisheries and aquaculture by encouraging Regional Fisheries Bodies to evaluate their performance, supporting them in implementing measures to fill any gaps identified (including by creating new networks) and supporting the reinforcement of national institutions.

Four Regional Fisheries Bodies within the FAO framework undertook performance reviews during 2012-13 – each of which had positive conclusions. A new Regional Fisheries Body (CACFish) was established as the first such body in the Central Asia and Caucasus Region. FAO also supported the creation of two new aquaculture networks, in Latin America and Africa respectively”. (PIR 2012-13)⁹⁰

Table 2. Output indicators measuring the development of IRC instruments pertaining to sustainable agricultural production and natural resource management and support provide by FAO to their implementation

Indicator	Target (end 2015)	Actual (end 2015)	Achieved
Number of international instruments (normative frameworks, standards, guidelines, recommendations and other subsidiary bodies/technical working groups pertaining to sustainable agriculture production and natural resources management	70	136	○
Number of processes in non-FAO international mechanisms/instruments that FAO supported to reflect sustainable agricultural production and natural resource management concerns in their decisions or products.	84	72	○
Number of processes and partnerships supported by FAO to facilitate implementation of the international (including regional) instruments and mechanisms that foster sustainable production and natural resource management	151	130	○

Achievement: ○ Fully (>75%) □ Partially (50% to 75%) △ Not achieved (<50%)

Source: PIR 2014-15, C 2017/8, p. 18.

Conclusion

As reflected in this Case Study, FAO is an international organisation which follows the traditional intergovernmental model. Its membership comprises nearly all countries of the world. It therefore provides a forum in which countries can engage with each other on an equal footing. In the context of IRC, each new IRC instrument adopted by consensus will reflect global interests and address global needs.

The case study further demonstrates that, should an organisation commit itself to fundamental reform to ensure that it can effectively act within the areas of its competence, it remains a valuable and important part of the international development community, particularly in the context of IRC.

Thus, the FAO Members, through their forward-looking actions under the IPA, have preserved and indeed strengthened the quality of FAO's IRC. Moreover, by developing a Strategic Framework and accompanying mechanisms for monitoring performance, they have established a basis for accountability and transparency that is key to objectively ensuring the integrity of FAO's IRC instruments and their effective implementation. Moreover, they have adopted institutional changes – in particular, the role of the regional Governing Bodies as well as the decentralisation of the Secretariat – that ensure that national and regional dimensions are properly considered in policy- and decision-making at the global level.

On a practical front, FAO's experience confirms that success in IRC requires a series of co-ordinated and coherent actions. Seeking to address an IRC instrument in isolation is neither efficient nor effective. With a competence as wide as food and agriculture, a cross-sectoral and multi-disciplinary approach is necessary, as well as co-ordination with other IRC actors active in relevant fields. Accordingly, FAO has, notwithstanding its intergovernmental nature, recognised that its traditional structure does not preclude effective engagement with other actors in IRC. Indeed, the integrity, authority and responsiveness to country needs of its IRC actions have been strengthened through this engagement.

Finally, FAO's IRC instruments call for a deep understanding and awareness of the science underlying them. This case study demonstrates the importance of up-to-date scientific information, appropriate technical assistance, and tailored methodological tools. These enable Members and other stakeholders to fully engage in the development and implementation of IRC and to have confidence in the instruments developed under FAO's auspices.

In light of the evolution of FAO since its establishment in October 1945 and, in particular, its most recent reform process, FAO is confident that it will continue to be a positive actor in IRC, responding to new challenges in the field of food and agriculture and striving to ensure that future generations are free from hunger and malnutrition.

Notes

1. The Constitution, Preamble.
2. The term “United Nations” was used to refer to the Allies of World War II.
3. FAO, FAO in the 21st Century – Ensuring Food Security in a Changing World, pp. xx-xxiv.
4. Strategic Framework 2010-2019, C 2009/3, Section I.
5. Report of the 36th Session of the Conference, C 2009/REP, paragraphs 116-118.
6. Reviewed Strategic Framework, C 2013/7, and adopted by the Conference at its 38th Session in 2013.
7. FAO Basic Texts, Part E, paragraph 1.
8. FAO, “Report of the Independent External Evaluation of the Food and Agriculture Organisation of the United Nations.” p. 62.
9. Collaborations may be established pursuant to Article XIII(1) of the Constitution, by which the FAO Conference “may enter into agreements with the competent authorities of such organizations, defining the distribution of responsibilities and methods of cooperation”.
10. FAO, Collaboration on Administrative and Processing Work between FAO, WFP and IFAD – Progress Report, p. 3.
11. FAO, Medium Term Plan 2014-17 and Programme of Work and Budget 2016-17, C2015/3, p. 14.
12. Reviewed Strategic Framework, C 2013/7, and adopted by the Conference at its 38th Session in 2013.
13. This Outcome is under SO 2: “to increase and improve provision of goods and services from agriculture, forestry and fisheries in a sustainable manner”.
14. The Constitution, Article II(11).
15. FAO Basic Texts, Part B.
16. The Constitution, Article IV.

17. The Constitution, Article III. States that, while not members of the Organization, are members of the UN, any of the UN specialised agencies or the IAEA can be invited by the Conference or the Council to attend the Conference or Council sessions in an observer capacity. Subject to the Council's approval or, when time is insufficient to consult the Council, on invitation by the Director-General, they can also attend regional or technical meetings of the Organization. Other non-member States cannot attend any meeting of the Organization.
18. The functions of the ICC are described in the Basic Texts, Part E.
19. The Constitution, Article V.2.
20. GRO, Rule XXIII.1(c).
21. GRO, Rule XII.
22. GRO, Rule XII.3(a).
23. GRO, Rule IV.
24. Figures only refer to staff holding fixed term and continuing appointments.
25. The Constitution, Article VIII.
26. FAO, FAO Decentralised Offices – Where Knowledge Becomes Action, 2015, p. 8.
27. Ibid. p. 7-8.
28. If a Member Nation is in arrears in payment of its financial contributions in an amount equal to or exceeding the contributions due from it for the two preceding calendar years, it shall not vote in the Conference (Article III of the Constitution) nor be eligible for election to the Council (Rule XXII GRO).
29. Article XVIII of the Constitution.
30. FAO, Medium Term Plan 2014-17 and Programme of Work and Budget 2016-17, C2015/3, p. 24-25.
31. FAO (2016), RIMA II, Resilience Index Measurement Analysis, Rome, www.fao.org/3/a-i5665e.pdf.
32. FAO's statistical publications and studies are available at: www.fao.org/economic/ess/ess-publications/en/#.V6hP79J95hE.
33. <http://faostat3.fao.org/home/E>.
34. www.fao.org/economic/ess/ess-publications/ess-yearbook/en/#.V6hPxNJ95hE.

35. All SOFIAs are available at: www.fao.org/fishery/sofia/en.
36. All SOFAs since 1947 are available at: www.fao.org/economic/es-home/sofa/en/#.V6iFsdJ95hE.
37. All SOFIs, as well as a graphical representation of the results of this assessment, are available at: www.fao.org/hunger/en/.
38. For more information see www.fao.org/nr/cgrfa/cgrfa-global/cgrfa-globass/en/.
39. The Constitution, Article IV.
40. The term “standard” generally identifies voluntary instruments (e.g. Codex standard), but may also be used for binding instruments (e.g. IPPC standards and APPPC standards).
41. The Codex Alimentarius Commission and standards are expressly mentioned in Article 3, as well as Annex A of the *Agreement on the Application of Sanitary and Phytosanitary Measures*. In the case on *EC – Sardines*, the WTO Appellate Body has recognised that a Codex Alimentarius standard qualified as a “relevant international standard” for purposes of Article 2.4 of the *Treaty on Technical Barriers to Trade*. See Appellate Body Report, *European Communities – Trade Description of Sardines*, WT/DS231/AB/R, adopted 23 October 2002, DSR 2002:VIII, p. 3359. Spec. para. 230-233. For further on Codex standards, see also OECD (2016b).
42. Codex standards are elaborated through subsidiary General Subject Committees (e.g. on Food Hygiene, Food Labelling, Food Additives and Contaminants, etc.) and Commodity Committees (e.g. on Fresh Fruits and Vegetables, Milk and Milk Products, etc.).
43. The Constitution, Article XIV.
44. Report of the 27th Session of the Conference, C 1993/REP, Resolution 7/93.
45. For a complete list, see www.fao.org/legal/treaties/treaties-under-article-xiv/en/.
46. The PSMA and the Compliance Agreement do not establish permanent intergovernmental commissions. Article 24 of the PSMA, nevertheless, provides that “[f]our years after the entry into force of [the] Agreement, FAO shall convene a meeting of the Parties to review and assess the effectiveness of [the] Agreement in achieving its objective. The Parties shall decide on further such meetings as necessary”.
47. ITPGRFA, Part IV.

48. The Agreements for the Establishment of a FAO Commission for Controlling the Desert Locust in South-West Asia, in the Central Region (CRC), and in the Western Region (CLCPRO).
49. Report of the 38th Session of the FAO Desert Locust Control Committee (DLCC), paragraph 16.
www.fao.org/ag/locusts/common/ecg/1138_en_DLCC38e.pdf
50. FAO's RFMOs are the Central Asian and Caucasus Regional Fisheries and Aquaculture Commission (CACfish), the General Fisheries Commission for the Mediterranean (GFCM), the Indian Ocean Tuna Commission (IOTC) and the Regional Commission for Fisheries (RECOFI).
51. GFCM Agreement, Article 13; IOTC Agreement, Article IX.
52. FAO, "Food Chain Crisis Management Framework: FAO's Approach to Address Transboundary Threats Affecting Food Safety, Animal and Plant Health."
53. FAO, "Food Chain Crisis Management", www.fao.org/3/a-mk804e.pdf.
54. FAO, "Food Chain Crisis Management Framework: FAO's Approach to Address Transboundary Threats Affecting Food Safety, Animal and Plant Health", p. 1-2.
55. www.fao.org/emergencies/fao-in-action/partnerships/en/.
56. www.fao.org/emergencies/resources/documents/resources-detail/en/c/171069/.
57. FAO, "Cash and Voucher Programmes", p. 3, www.fao.org/3/a-i5424e.pdf.
58. FAO, "Cash and Voucher Programmes", p. 3, www.fao.org/3/a-i5424e.pdf.
59. FAO, "Cash and Voucher Programmes", p. 3, www.fao.org/3/a-i5424e.pdf.
60. FAO, "Guidelines for Input Trade Fairs and Voucher Schemes – Version I".
61. See, for example, GFCM's online database on Validated Stock Assessment Forms (SAFs) and its Data Collection Reference Framework (DCRF), 2016. See also IOTC's Status Summary for Species of Tuna and Tuna-like Species under the IOTC Mandate, as well as other Species Impacted by IOTC Fisheries.
62. FAO Strategy for Partnerships with Civil Society Organizations, CL 146/REP, Appendix F.

63. FAO Strategy for Partnerships with the Private Sector, CL 146/REP, Appendix C.
64. Strategy for Partnerships with the Private Sector, CL 146/REP, 2013.
65. GFCM Rules of Procedure, Annex I, Reference framework for the subsidiary bodies, Sections on *The Scientific Advisory Committee on Fisheries* and on *The Scientific Advisory Committee on Agriculture*, respectively.
66. GFCM, Conclusions of the ad hoc meeting to launch the GFCM Aquaculture Multi-stakeholder Platform (AMShP), Section on *Nature and Scope of the AMShP*; Report of the 38th Session of the GFCM, GFCM REPORT 38, paragraphs 112-115.
67. FAO Strategy for Partnerships with Civil Society Organizations, CL 146/REP, Appendix C, Section III, paragraph 22.
68. FAO Basic Texts, Part O.
69. See for example: the Agreement for the Establishment of a Regional Animal Production and Health Commission for Asia and the Pacific (APHCA), the Agreement for the Establishment of the Asia-Pacific Fishery Commission (APFIC); the Agreement on the Central Asian and Caucasus Regional Fisheries and Aquaculture Commission (CACfish); SWAC, CRC, and CLCPRO; the Convention Placing the International Poplar Commission within the Framework of FAO (IPC); the Agreement for the Establishment of the Regional Commission for Fisheries (RECOFI).
70. The list is available on the following website: www.fao.org/righttofood/publications/en/?tx_mblnewsevent_organizer=22592.
71. PIR 2012-13, C 2015/8, paragraphs 86-87, www.fao.org/docrep/meeting/030/mj548e.pdf.
72. Ibid., paragraph 33.
73. PIR 2014-15, C 2017/8, paragraph 39, www.fao.org/3/a-mp989e.pdf.
74. Ibid., p. 18.
75. Ibid., paragraph 45.
76. Ibid., paragraph 224.
77. Ibid., paragraph 232.
78. Ibid., paragraph 47.

- 79. PIR 2010-11, C 2013/8, paragraph 55,
www.fao.org/docrep/meeting/025/md692e.pdf.
- 80. PIR 2014-15, C 2017/8, paragraph 66, www.fao.org/3/a-mp989e.pdf.
- 81. Ibid., paragraph 48.
- 82. Ibid., paragraph 237.
- 83. PIR 2010-11, C 2013/8, paragraph 130,
www.fao.org/docrep/meeting/025/md692e.pdf.
- 84. PIR 2014-15, C 2017/8, paragraph 258(a), www.fao.org/3/a-mp989e.pdf.
- 85. PIR 2010-11, C 2013/8, paragraph 83,
www.fao.org/docrep/meeting/025/md692e.pdf.
- 86. Ibid., C 2013/8, paragraph 86.
- 87. PIR 2014-15, C 2017/8, paragraph 132, www.fao.org/3/a-mp989e.pdf.
- 88. Ibid., paragraph 141.
- 89. Ibid., paragraph 65.
- 90. PIR 2012-13, C 2015/8, paragraphs 92-93,
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International Regulatory Co-operation and International Organisations

The Case of the Food and Agriculture Organization of the United Nations (FAO)

The Food and Agriculture Organization of the United Nations (FAO) is the leading intergovernmental organisation for nutrition, food and agriculture, including fisheries and forestry. FAO promotes the eradication of hunger and malnutrition by supporting countries in the development and implementation of normative and regulatory instruments at global, regional and national levels. FAO is involved in the entire cycle of co-operation albeit in varying degrees, from data collection to compliance assessment. This case study provides an overview of FAO's role in International Regulatory Co-operation (IRC) – its institutional context, its main characteristics, its impacts, successes and challenges.

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