International organisations in the context of COVID-19: adapting rulemaking for timely, evidence-based and effective international solutions in a global crisis

Summary Note of COVID-19 Webinars of the Partnership of International Organisations for Effective International Rule-making

Introduction

1.   The COVID-19 pandemic and ensuing global economic and social crisis are a reminder of how interconnected our world has become – and of the importance of co-operation in effectively addressing global policy challenges. The COVID-19 crisis has highlighted a number of areas where international regulatory cooperation can support domestic action to promote sustained and effective regulatory responses and where IOs play a prominent role (OECD, 2020[1]).

2.   International organisations (IOs) provide a permanent institutional framework for various countries to cooperate and, as such, have an instrumental role to play in the COVID-19 response and recovery. They possess large stores of information and experience on which a wide range of governments representatives and various stakeholders can draw, and allow for the aligning of approaches across countries facing similar policy issues, namely through the development of international instruments. IOs bolster and complement national institutions by helping develop and promote common solutions for global challenges. In the context of COVID-19, the role of IOs has therefore proved ever more crucial. To provide timely, evidence-based and effective support to their constituency in managing the crisis, IOs have adapted their rulemaking practices to continue their normative activities while shifting to virtual operations.

3.   IOs reflection on making their rulemaking effective is not new. From 2014, agreeing on the need for joint efforts to enhance international rulemaking, 50 secretariats of IOs started working together through a Partnership of International Organisations for Effective International Rulemaking (IO Partnership). This platform supports collective action to promote greater quality, effectiveness and impact of international instruments. The IO Partnership brings together IOs of varying natures, ranging from intergovernmental organisations, to trans governmental networks and private standard-setters, working in diverse fields.

4.   Recognising the common challenges facing international rulemaking, the IOs of the Partnership convened to learn from each other's experience in addressing the crisis. Between May and July 2020, the IO Partnership held four webinars aiming to provide a platform for in-depth discussion and exchange of experiences on the challenges and initiatives of IOs in response to the COVID-19 pandemic, as well as long-term considerations for international rulemaking. The webinars included highly interactive discussions among 33 IOs, with10 presentations in total (see list in annex), and IO interventions were complemented by thought-provoking insights from academics. The webinars were organised around 4 themes:

- Responding to COVID-19: The IO Partnership in Action (12 May 2020);
- Adapting decision-making procedures on rulemaking and emergency ruling to exceptional circumstances (4 June 2020);
- The role of normative IOs in supporting their constituencies in managing crisis (30 June 2020); and
- Co-ordination among normative IOs to provide joint responses to a crisis (21 July 2020).

5.   This document summarises the main challenges facing international rulemaking, key takeaways from the webinars, and proposed next steps under the work of the IO Partnership.

Challenges

6.   IO rulemaking practices face three levels of challenges as a result of the COVID-19 pandemic with both immediate effects and long-term considerations:

- **Ensuring continuity of IOs normative activities**. The crisis highlighted the importance of having legal frameworks flexible enough to adapt the rules of procedure and instruments to the limitations created by physical distance measures that challenge the normal operations of IOs. While the transition was carried-out smoothly for technical work, it proved more difficult for critical decision-making functions, including voting arrangements. The crisis also underscored the relevance of

business continuity plans to allow IOs to address the needs of their constituencies in a timely fashion. Adapting on-going programmes of work, in order to free up resources without compromising core activities, proved to be one of the most essential and challenging tasks during the initial response to the crisis.

- **Organising dialogue with members for effective support and continued buy-in**. The crisis largely confirmed the critical role of IOs as repositories of information and experiences for their members/constituencies. IOs remain especially attentive to ensure a level playing field across members, this includes adapting to different requirements for IT tools, but also addressing the needs of developing countries or constituencies with lesser implementation capacities with a focus on tackling capacity gaps.
- **Cooperating with other IOs for effectiveness and efficiency**. The need for coordination across IOs emerged as critical given the wide effects of the current crisis cutting across portfolios to capitalise on their combined strengths. Examples of collaborative responses to the COVID-19 crisis abound in different fields, with a number of IOs producing joint deliverables.

7.   The COVID crisis underlines deep vulnerabilities for multilateralism and international rulemaking in a complex interconnected world. Unabated political support for global solutions reached under the international system should not be taken for granted. Global shocks are the new normal and, going forward, IOs and national governments need to be much better prepared to manage global crisis, including, among other, new pandemics and environmental challenges. Conducting foresight work can bolster IOs' preparedness for the next phases of the COVID-19 pandemic and the ongoing social and economic crisis, and ensure resilience for future emergencies. Going forward it remains to be seen how IOs will rebalance their activities, particularly for those that have reprioritised areas of work to focus on the emergency.

Main takeaways

Managing continuity and rulemaking under disruption

8.   **International organisations typically operate under strict normative frameworks setting long-term mandates and enabled by governance modalities and decision–making practices that are heavily reliant on face-to-face and candid interactions among different actors.** At first sight, their activities may not be attuned to deal with major disruptions. Facing the COVID-19 emergency required a rapid response from IOs in adapting their operations to ensure continuity of functions, including their normative activities and other regular Secretariat functions, while also adjusting their on-going programmes of work to address crisis related topics without compromising core activities.

9.   **Reacting to the crisis, IOs largely succeeded in continuing their core activities while also adding a focus on the pandemic including repurposing existing mechanisms to address or target the emergency.** Webinar discussions confirmed that overall IOs largely succeeded in overcoming the challenges posed by social distancing by shifting to virtual operations. Many IOs shared the numerous technical challenges faced transitioning their functioning to a virtual context, including enabling interpretation for virtual meetings (sometimes to several languages), selecting digital platforms that enabled accreditation of participants and ensured confidentiality and virtual voting mechanisms, particularly relevant when unanimity rules apply requiring every single vote to be actively counted. Nevertheless, by experimenting with different virtual platforms, successive testing and ad hoc assistance to countries facing specific connectivity difficulties, many IOs managed to hold meetings of both technical and governance bodies. The WHO, for example, held virtual, *de minimis*, sessions of the World Health Assembly (WHA) and the Executive Board – WHO's governing bodies at the global level, bringing together

190 countries out of WHO's 194 Member States. The virtual WHA session allowed, inter alia, the adoption of a resolution on the COVID-19 response.[1]

10.   **The crisis underscored how IOs may be served by flexible approaches to secure that they can continue delivering to their constituencies under changing and challenging circumstances.** Relying on continuity plans - at times adapted or complemented on the spot while facing the crisis - can help ensure adaptability. For example, the International Organization for Standardization (ISO) designed a strategy to refocus its activities, framed by its existing standard on business continuity (ISO 22301) and supported by a newly-created team.

11.   **Rulemaking procedures and activities adapted to the exceptional circumstances created by the crisis relying mostly on the existing normative frameworks.** Mostly, IOs could rely on existing procedures to continue operating, albeit at times relying on new texts to complement their constitutive text and/or rules of procedure. For instance, the Organisation for Economic Cooperation and Development (OECD) developed guidance to clarify procedural aspects around rulemaking and the Organisation for International Carriage by Rail (OTIF) consulted with its constituents and relying on written procedure to make necessary adjustments, including the modification of annexes to its convention. Looking ahead, the vast majority of IOs note the critical importance of guaranteeing the flexibility of rules of procedure to adapt to emergencies, while only a few IOs consider that a broader range of decision-making processes would be necessary or that business continuity plans should be established or revised in this regard.

12.   **The work of technical committees proved easier to adjust to a virtual environment than the decision making work of governing bodies**. For governing bodies, when it came to key rulemaking decisions approval through written procedures was the preferred avenue to adapt to virtual operations with less reliance on virtual meetings. Only a minority of governing bodies postponed these type of decisions. On the other hand, the work of technical committees, typically less politically sensitive, continued steadily mostly through virtual meetings and very exceptionally leaning on approval by written procedure. Notably, only a small fraction of the work of technical committees was postponed.

13.   **The crisis also highlighted the importance of flexibility to adapt core IO instruments and services to address the needs of constituencies in a timely fashion.** For example, the OIE issued high-level guidance supporting the repurposing of veterinary labs to conduct diagnostic testing of human samples for COVID-19. International standard-setting bodies (ASTM International, IEC and ISO) made available standards on medical devices, respirators and personal protective equipment at no cost.

The role of normative IOs in supporting their constituencies to manage the COVID-19 crisis

14.   **IOs have adapted their activities to cater for the urgent needs of their constituencies and support an international regulatory cooperation response to the COVID-19 crisis** (OECD, 2020[1]). Specifically, IOs have supported their constituencies through three core actions:[2]

- Providing information about policy actions from countries across the world and from past and on-going policy experience, and enabling communication among countries;
- Facilitating experimentation and dissemination of what policies are delivering effective results; and
- Coordinating among IOs to exacerbate the specialties and strengths of each IO to address the multifaceted breadth of the current crisis.

15.   **Most IOs made available dedicated platform or repositories to facilitate exchange of information among members / constituencies and guidance on how to use their normative**

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[1] https://apps.who.int/gb/ebwha/pdf_files/WHA73/A73_R1-en.pdf

[2] Presentation by Dr. Oliver Westerwinter, University of St. Gallen, during the webinar held on 30 June 2020.

instruments during the crisis. While less common, a significant number of IOs developed new normative work and/or supported their constituency in enforcing the normative instruments of the organisation. A minority of IOs were directly involved in crisis management or dispute resolution, confirming previous OECD findings that, when it comes to rulemaking, IOs are mostly involved in data sharing and the development of international instruments rather than in downstream enforcement activities (OECD, 2016[2]).

16.   **IOs have been fast in providing a comprehensive response to the COVID-19 crisis, including by adapting or delivering dedicated instruments.** For instance, the World Anti-Doping (WADA) has taken normative action to adjust the implementation of the World Anti-Doping Code to current sanitary requirements, while World Customs Organisation (WCO) and WHO have development of specific guiding materials to support the smooth flow across borders of priority medicines and other essential products. Similarly, IAF established a COVID-19 Task Force for the development and publication of Frequently Asked Questions to help accreditation bodies continuously operate in the COVID-19 context and avoid as contradictions with relevant international standards and/or other normative documents. Going forward, it will be key to evaluate the effectiveness of the different IO responses to the crisis, identifying changes and innovations that may stay in place after the crisis, revising instruments as needed and drawing lessons for upcoming crisis. As an example, the World Organisation for Animal Health (OIE), is already planning an "after-action-review" of the incident recording system.

Coordination among normative IOs to provide joint responses to the crisis

17.   **The crisis has seen a surge in calls for and implementation of coordination efforts among IOs.** IOs have coordinated during the crisis to support their constituencies in a range of traditional and new areas. For instance, historical cooperation between the Food and Agriculture Organization of the United Nations (FAO), the World Organization for Animal Health (OIE) and the World Health Organization (WHO) around the "one health" concept to recognise that human health and animal health are interdependent has proved particularly relevant in the context of the COVID-19 pandemic. The WCO has worked closely with the World Trade Organisation (WTO) to maintain the continuity of global supply chains. Coordination has also aimed at ensuring implementation of instruments in unprecedented circumstances, for instance, WADA has worked with the Council of Europe to ensure complementarity of guidance to countries on anti-doping regulations. (OECD, 2020[1]) provides additional examples of IO coordination initiatives in response to the COVID-19 crisis.

18.   **Still, evidence suggest that facing the crisis IOs' coordination patterns largely align with their practices under normal circumstances.** IOs have mostly joined efforts with already existing partners and resourced to existing cooperation tools. Further, throughout the crisis IOs have coordinated their normative activity for a variety of purposes but also following previous practices (OECD, 2016[2]). Joint efforts have mainly focused on data collection, definition of good practices, conducting analytical work and assisting countries in the implementation of international instruments. Still, a smaller number of IOs have coordinated to develop new instruments, amend existing instruments, and crisis management activities. Further, IOs have mostly used coordination tools that provide a flexible means to cooperate without necessarily requiring strong alignment in their activities and outputs. These tools include instruments such as Memoranda of Understanding, exchange of letters, or coordination meetings. Collaboration through technical platforms for cooperation, joint task groups, or joint work programmes have remained less utilised as they provide stronger forms of institutional coordination that are not that common even in regular times (OECD, 2019[3]).

19.   **International organisations discussed the importance of intensifying their cooperation efforts and address existing gaps**. The coordination tools put in place during the crisis have largely the vocation of being long-term tools to be used beyond the crisis. This is evidence of the commitment of IOs to continue to maximise the opportunities for co-ordination for rulemaking purposes. Yet, collaboration

across IOs has long-been identified as a key area for effective international rulemaking albeit one where there is significant room for improvement (OECD, 2016[2]). Concrete actions inside IOs that could help bridge gaps to this effect include, among other, systematic mapping potential partners and providing guidance to for coordination efforts (OECD, 2019[3]).

Considerations for the way forward

20. The response of international organisations to the COVID-19 crisis highlights certain priorities for international rulemaking going forward:

- **As IOs rebalance their activities, it will be key to evaluate the effectiveness of their responses to the crisis**, particularly for those that have reprioritised areas of work to focus on the emergency. This includes monitoring and assessing the impact of the instruments developed in reaction to the emergency, identifying the changes and innovations in international rulemaking that are likely to remain in place after the crisis, and drawing lessons for upcoming event.

- **The digitalisation of some IO's activities is likely to remain in place after the crisis.** IOs would benefit from intensified efforts to ensure that their frameworks and rules of procedure are suitable for increased virtual remote operations, including normative activities. They may also tap on the potential of these changes to improve rulemaking practices, for instance through tools to promote stakeholder engagement or facilitate coordination among IOs, including through exchange of information and data.

- **The crisis builds momentum to renew coordination efforts among IOs avoiding *inertia* and adopting innovative approaches** that ensure that IOs stand ready to provide joint solutions for emerging challenges. It remains to be seen if the alliances and joint initiatives set in place during the crisis advance into stronger and better cooperation among IOs, particularly around international rulemaking.

- **IOs need to anticipate and prepare to ensure effectiveness of responses to the next phases of the crisis and bolster IO resilience for future emergencies**. Going forward, IOs could make use of foresight strategies and emerging technologies to support their constituencies in addressing upcoming policy challenges. In addition, internal preparedness mechanisms, including business continuity plans, may strengthen their resilience to future crisis.

- **The crisis provides a unique opportunity to strengthen the links between domestic and international rulemaking**. As the emergency subsides, IOs should support countries as they review their responses to the crisis, including evaluating emergency regulations, and draw lessons to reinforce readiness and responsiveness for upcoming challenges.

21. The IO Partnership has proved a useful platform under exceptional circumstances to facilitate the exchange of experience and information across IOs on their rulemaking activities. Going forward, the IO Partnership will continue to provide a platform for IOs to support greater understanding and exchange on the continued effectiveness of international rulemaking. The *Compendium of International Organisations' Practices for Effective International Rulemaking,* to be launched in 2021**,** will help IOs strive towards greater inclusiveness, quality and impact of international rules, and will leverage the experiences of normative IOs in addressing the COVID-19 and lessons learnt to prepare international rulemaking for future crises.

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References

OECD (2020), *No policy maker is an island: The international regulatory co-operation response to the COVID-19 crisis*, http://www.oecd.org/coronavirus/policy-responses/no-policy-maker-is-an-island-the-international-regulatory-co-operation-response-to-the-covid-19-crisis-3011ccd0/ (accessed on 10 July 2020). [1]

OECD (2019), *The Contribution of International Organisations to a Rule-Based International System*, OECD, Paris, https://www.oecd.org/gov/regulatory-policy/IO-Rule-Based%20System.pdf. [3]

OECD (2016), *International Regulatory Co-operation: The Role of International Organisations*, OECD Publishing. [2]