

Chapter 4

Implementation and impacts of the instruments of international organisations

There is generally limited structured evidence on the impact of the activities and instruments developed by international organisations in support of global rules and co-ordinated regulatory approaches. The difficulty is amplified by the fact that implementation of global standards relies strongly on national levels and its monitoring may be outside the scope of the responsibility of international organisations. This chapter analyses how international organisations support and track implementation and impacts of their instruments based on the answers to the 2015 OECD Survey of International Organisations.

The 2015 OECD Regulatory Policy Outlook notes that "[r]egulatory implementation and enforcement remain the weakest link in regulatory governance" at national level. Similarly, OECD (2013) underlines among the perceived challenges faced by inter-governmental organisations (IGOs) the weakness in enforcement and compliance. While developed at the international level, the instruments of international regulatory co-operation (IRC) of international organisations (IOs) are usually meant to be applied and enforced at domestic level. As seen in the previous chapters, relatively few of IO instruments can be considered directly legally-binding on member states. IOs are therefore usually not directly in charge of the implementation and the enforcement of the instruments that they help develop – which is left to their members. They may however encourage and / or monitor the implementation of the instruments that they develop. Tracking implementation has the additional benefit to provide the evidence needed to support the evaluation of the influence of the IO (and, ultimately, its impact), as well as the relevance of the instrument and any need for revision.

Implementation mechanisms

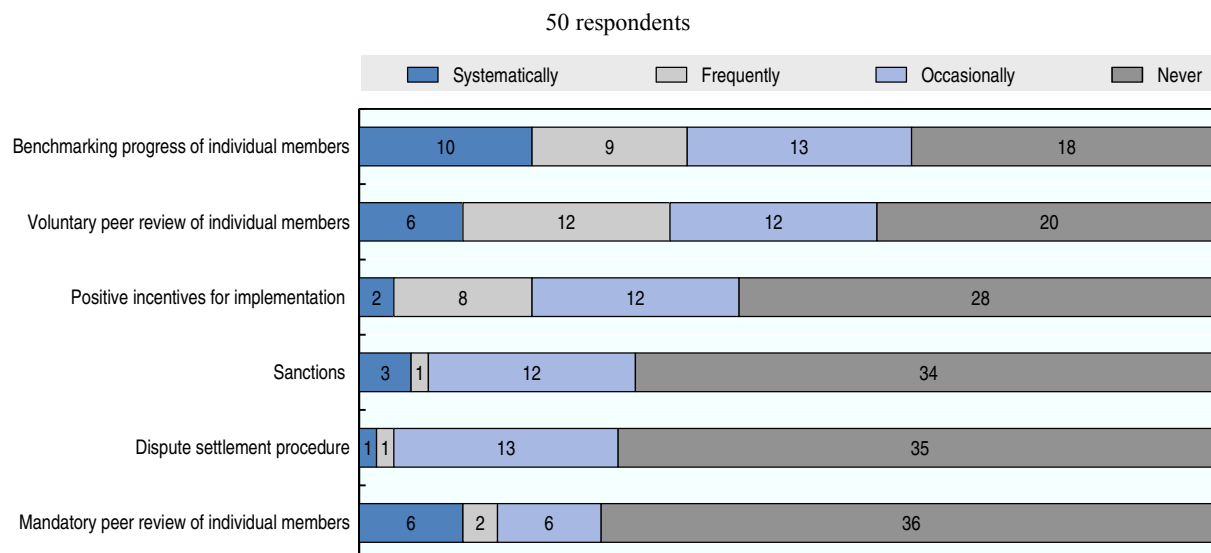
Most IOs encourage implementation of IRC instruments through the use of soft tools (Figure 4.1) such as benchmarking of progress, voluntary peer review and, to a lesser extent, positive incentives for implementation (22 IOs, of which only 2 do it systematically). Formal mechanisms, such as sanctions, dispute settlement procedures and mandatory peer reviews are less commonly used, but not inexistent. The EC and OAS are two examples where dispute settlement is a key feature of the framework provided by the IOs. Other IOs have put in place dispute settlement procedures. However, their use may in practice be limited. This is the case for example of the OSCE Court of Reconciliation and Arbitration established in 1994, which has yet to receive a case. Sanctions (such as the suspension of membership fees) are systematic for 3 IOs (CITES, IFAC and UPU). They are frequent for OZONE, although threat of sanctions is generally enough to ensure return to compliance. Fourteen IOs resort to mandatory peer review of individual members; including six on a systematic basis (EU, IAF, ILAC, IMF, IMO and WTO/OMC).

These features reflect the limited use of legally binding instruments by IOs and the fact that non-legally binding instruments are more common. Secretariats of convention, the IOs enjoying more legally binding instruments in the sample, generally use more formal mechanisms to encourage and supervise implementation. These features also most likely demonstrate the challenges for horizontal, non-hierarchical forms of co-operation to provide for remedies and dispute settlement procedures to their members.

All IOs provide some kind of assistance for the implementation of their IRC instruments (Figure 4.2). Generally, assistance takes the form of training programmes or tools/guides supporting implementation. These activities are so frequent across IOs and they may in some cases be such a substantial part of the IO missions that they may be considered as a separate form of IRC activity. In some cases, IOs also extend technical assistance. This is common for the IMO, the IMF, the WCO and the WTO/OMC. In a more limited number of cases, the IO can make financial assistance available to its members. A number of trans-governmental networks of regulators (TGNs) (SAICM, ILAC), secretariats of conventions (BRS Conventions, CBD, OZONE) and regional organisations (COMESA, EC, and OAS) are in this situation. Secretariats of environmental conventions provide a financial assistance to their members through their own financial mechanisms (e.g. OZONE and the Multilateral Fund for the

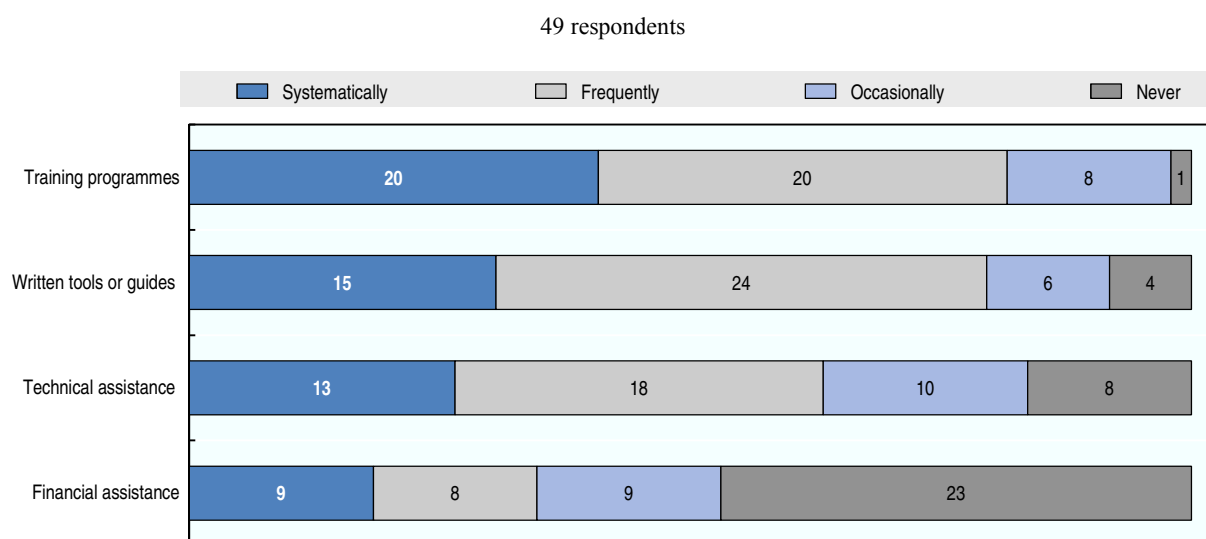
Implementation of the Montreal Protocol); or through international financial mechanisms (such as the Global Environment Facility).

Figure 4.1. Which of the following procedures does your organisation use to supervise and encourage implementation?



Source: OECD Survey of International Organisations, 2015.

Figure 4.2. Does your organisation provide any of the following forms of assistance for implementation by members of IRC instruments?



Note: The information is missing for OTIF.

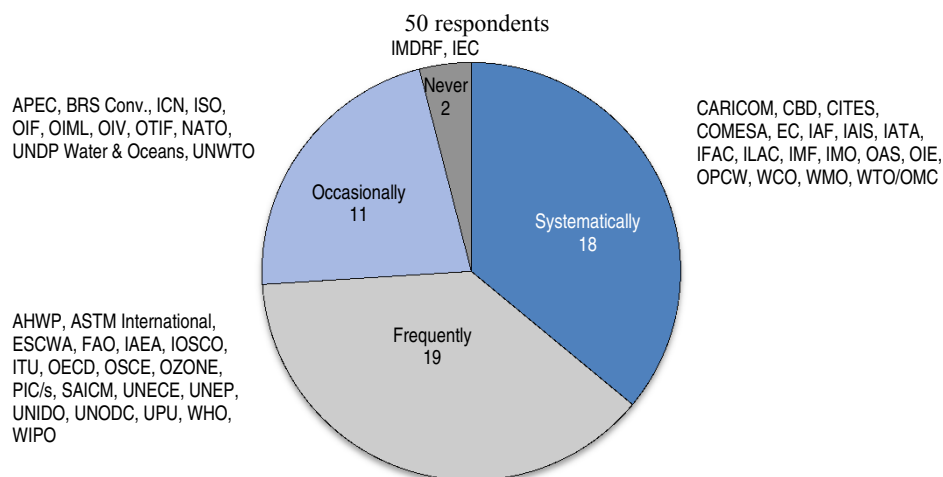
Source: OECD Survey of International Organisations, 2015.

However, only roughly a third of the IOs systematically track the implementation of their IRC instruments (Figure 4.3); 19 report doing so frequently; 11 do it only occasionally, and 2 never do so. In some cases, a subsidiary body is tasked with monitoring implementation. This is for instance the case with the BRS Conventions, for which a subsidiary body was established under the Basel Convention to promote

implementation and compliance (the ICC). The ICC reviews general issues and also individual issues of implementation and compliance.

In other cases, IOs adopt formal mechanisms to track and monitor implementation. For instance, the OAS Follow-Up Mechanisms for Implementation of the Inter-American Convention against Corruption (MESICIC) examine the members' level of implementation of the Convention, and formulate recommendations where they find legal gaps or where further progress is necessary. CARICOM is considering adopting a results-based management approach to achieve the goals set in its Strategic Plan 2015-19. This approach, based on a Balanced Scorecard, will form the basis for monitoring and evaluating the implementation of IRC instruments. Indeed, the system will allow for overall performance analysis by assessing also the degree of implementation of the CARICOM common market and the harmonisation of some functions and responsibilities in member states.

Figure 4.3. **How often does your organisation gather and track information on implementation of legal or policy instruments?**

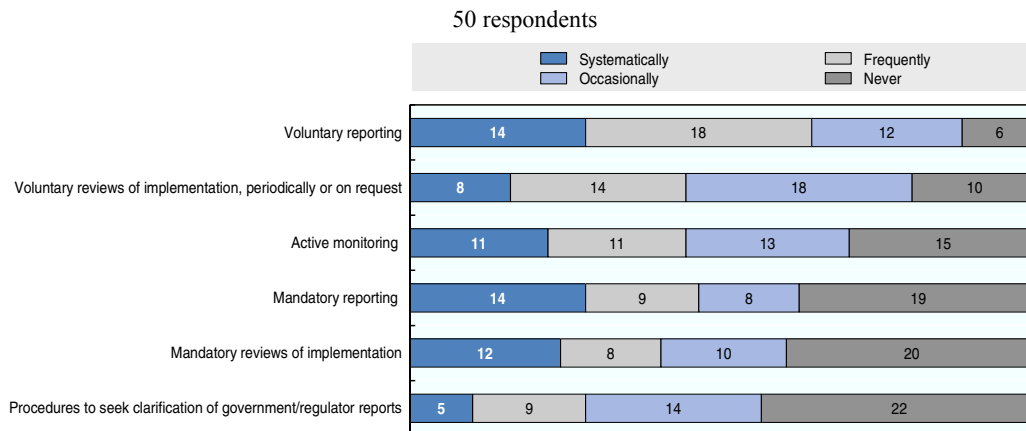


Source: OECD Survey of International Organisations, 2015.

When they track implementation, and in line with previous results highlighting the predominance of non-legally binding instruments, IOs do so primarily through voluntary mechanisms (Figure 4.4): voluntary reporting and voluntary reviews of implementation. Active monitoring is systematic or frequent for 22 IOs. Mandatory mechanisms are less common but are still used by a substantial number of IOs: 31 IOs engage in mandatory reporting, 30 in mandatory reviews (14 and 12 systematically, respectively). For more than four IOs of the sample in five, the secretariat is tasked with reporting to the appropriate organs on implementation of legal instruments and policy standards.

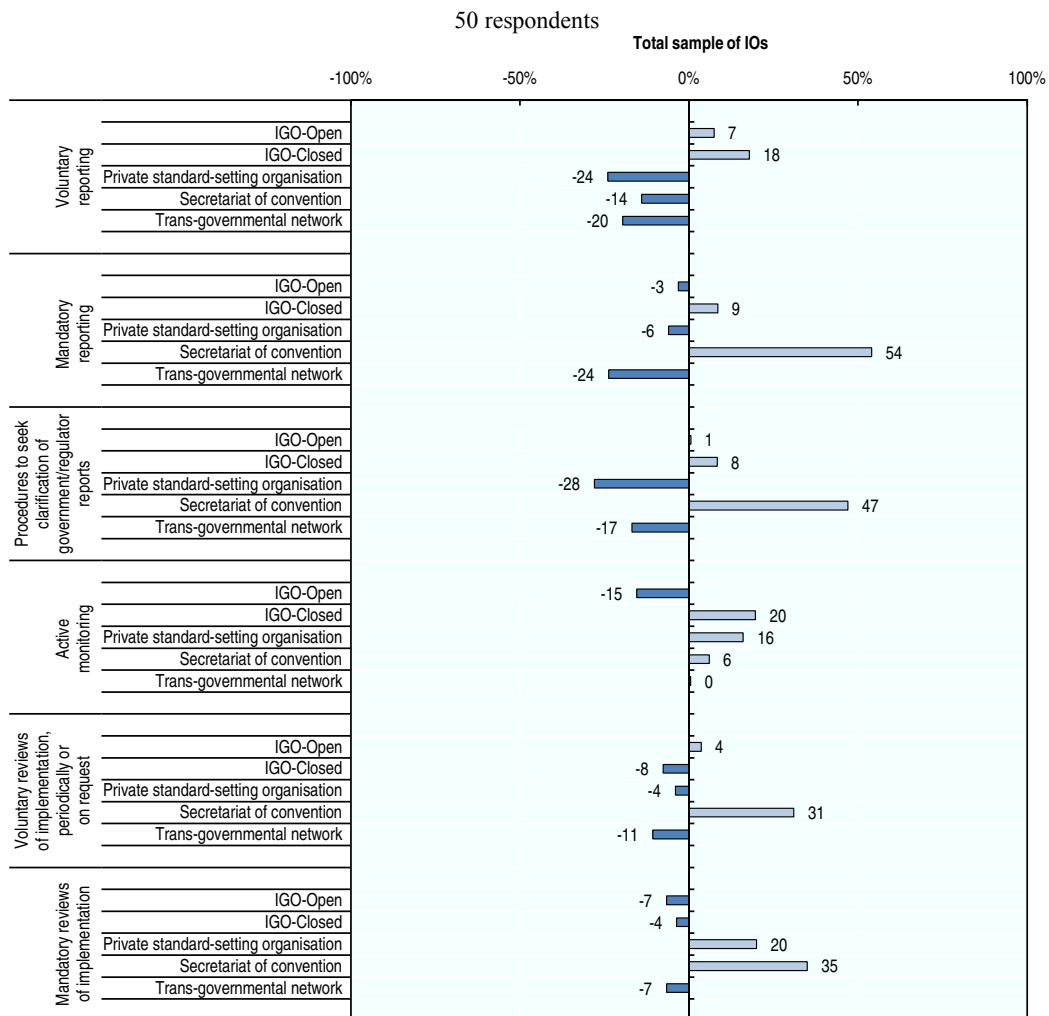
As an example, under the Montreal Protocol, the Parties are required to report to the OZONE secretariat various types of information on production and consumption of ozone-depleting substances. For some of those reporting requirements, guidelines or reporting forms have been prepared (http://ozone.unep.org/en/data_reporting_tools.ph). The secretariat reviews the data and prepares the reports for consideration by the Implementation Committee and the Meeting of the Parties. The latter bodies make appropriate recommendations and decisions following the review of data and information presented by the secretariat.

Figure 4.4. How frequently does your organisation use the following mechanisms to track implementation?



Source: OECD Survey of International Organisations, 2015.

Figure 4.5. Mechanisms to track implementation by nature of IOs



Notes: The figure considers both the IOs that answered “systematically” and “frequently” and compares the averages for the specific IO groups to the average for the total sample of IOs. In this figure, the EC is included in the category of closed-membership IGOs.

Source: OECD Survey of International Organisations, 2015.

When the nature of the IOs is taken into account (Figure 4.5), IGOs, in particular closed-membership IGOs, rely on reporting (voluntary mostly) more than the rest of the sample to track implementation. Secretariats of conventions represent the group of IOs that relies the most on mandatory mechanisms to track implementation (mandatory reporting and reviews, procedures seeking clarification). By contrast, TGNs adopt fewer instruments to track implementation than the other IOs.

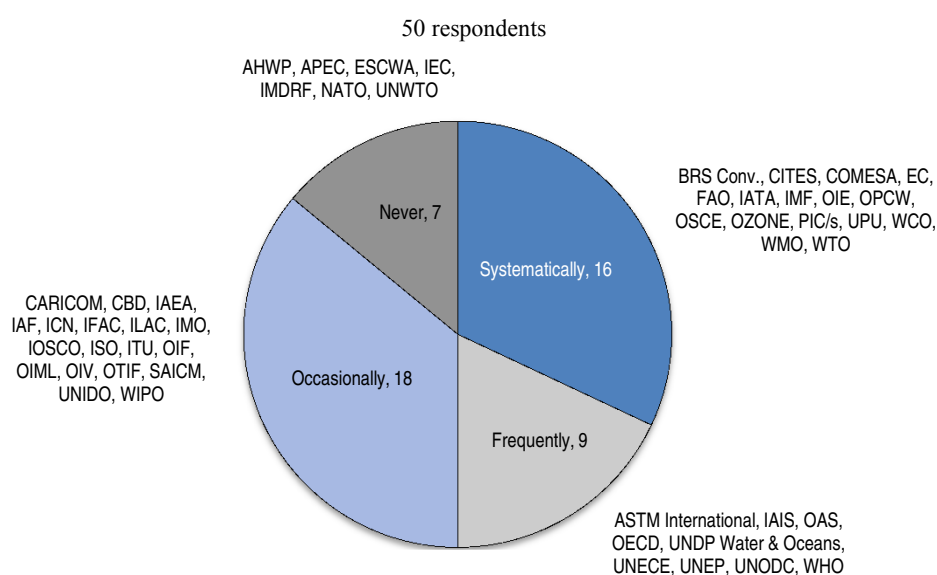
Monitoring of impacts

Monitoring of impacts of IRC instruments on the underlying problems is even less systematic than the monitoring of implementation (Figure 4.6). IOs report doing it systematically in 16 cases, frequently in 9 cases, only occasionally in 18 cases and never in 7 cases. There is a gradation of approaches to the evaluation of impacts, from the mere monitoring of use of the tool to the quantified approach of the ultimate impacts. Given the complexity of carrying out evaluation and the lack of available information, most IOs mainly monitor the use of their instruments (rather than the ultimate impacts).

UNECE notes that for many of its agreements, conventions, and recommendations, a simple metric to assess impacts is the record of national implementations, which is in some cases the entire UNECE membership, and in others includes non-member countries as well. The FAO monitors the reference to FAO instruments in policies, strategies and laws or other governance instrument, as a proxy for implementation. At the other end of the spectrum, the EC carries out *ex ante* impact assessment and *ex post* evaluation (Box 4.1), reflecting the legally binding nature of many of its requirements.

This varying degree of impact monitoring by IOs may reflect the legally binding nature of the instruments and the extent to which implementation is in the hands of members (see also next chapters).

Figure 4.6. **How often do IOs gather and track information on the impacts of their instruments?**



Source: OECD Survey of International Organisations, 2015.

Box 4.1. The European Commission Better Regulation policy

The European Commission (EC), as the executive body of the European Union, proposes new initiatives and legislation, which are adopted by the European Parliament and the Council, and monitors the application of European Union law in the 28 member states. While the member states are responsible for the effective implementation and enforcement of European law, the EC has developed a comprehensive *Better Regulation policy* to improve the quality of its rule-making activities and to monitor their impacts.

According to the Better Regulation policy, the EC is required to engage with stakeholders in the early stages of development of major primary and subordinate legislation. Stakeholders are informed of upcoming consultations through roadmaps listing planned new legislation and amendments to existing legislation. The EC is also required to conduct regulatory impact assessments (RIAs) for major primary and secondary legislation. An Impact Assessment Board reviews RIAs and an opinion of the Board is a prerequisite for a proposal to be considered by the EC. A dedicated unit in the European Parliament also conducts an assessment of the RIA once the proposal is submitted to the Parliament. In addition, the EC is also required to undertake proportionate *ex post* assessment of legislation.

Source: OECD (2015), *OECD Regulatory Policy Outlook 2015*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264238770-en>.

The engagement of IOs in quantitative and/or qualitative assessments of the benefits and costs members may realise from using the organisation's instruments for IRC is even less common. A quarter of the sample report never doing any kind of assessment, even occasionally (this share increases to a third when quantitative assessment is considered). Six IOs report carrying quantitative assessments systematically: BRS Conventions, IATA, OPCW, OSCE, WCO and WMO. Table 4.1 provides more details on the methodologies reported by IOs to assess *quantitatively* and/or *qualitatively* the benefits members gain (and any costs they incur) from using the organisation's instruments for IRC. The most common tools used to assess the impacts are questionnaires to members and country or thematic case studies to collect information on benefits and costs. There are also differentiated approaches between the IOs that favour internal evaluation (OECD, FAO or ISO for instance) and those that undertake external evaluation (OIF or UNODC for instance).

Table 4.1. **Methodologies used for assessing the benefits and costs produced by IRC**

Methodology	Examples from IOs
Cost/benefit analysis	The EC adopted on 19 May 2015 a package of better regulation measures, which includes some methodological information (Better Regulation Guidelines) on how to monitor the impact of new EC initiatives and legislation. The guidelines identify Cost/Benefit Analysis (CBA) as one of the key methodologies to assess the impact of regulatory activities. The guidelines provide also a manual (Better Regulation Toolbox) where specific technical information on how to carry out CBA, both <i>ex ante</i> (within impact assessment work) and <i>ex post</i> (in retrospective evaluation work), is suggested.
Survey/questionnaire	<p>In 2009, the OECD conducted a survey to determine the savings that governments and industry accrue from their participation in the OECD Environment, Health and Safety (EHS) Programme for chemical safety, focusing on the benefits of harmonisation through the Mutual Acceptance of Data (MAD) system and burden sharing from working together through the High Production Volume (HPV) programme and the costs of supporting the EHS Programme was carried. www.oecd.org/env/ehs/47813784.pdf.</p> <p>Every year ISO performs a survey to identify the number of valid certificates to ISO management standards (such as ISO 9001 and ISO 14001) by country. The ISO survey counts the number of certificates issued by certification bodies that have been accredited by members of the International Accreditation Forum (IAF). www.iso.org/iso/home/standards/certification/iso-survey. ISO also uses annual member satisfaction survey (as well as developers and standards users)</p> <p>IAIS has a specific Field Testing Task Force to perform impact studies on the Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame). ComFrame is a set of international supervisory requirements focusing on the effective group-wide supervision of internationally active insurance groups. These impact studies evaluate the effectiveness of ComFrame and whether it does not result in excessive costs. The methodologies used involved questionnaires and surveys (both qualitative and quantitative with data gathering in the form of templates) of the firms in the scope (Internationally Active Insurance Groups) and their supervisors.</p> <p>WMO gathers information on benefits by using questionnaires to members every two years. In addition, Departments may send questionnaires to assess the progress and impact of specific activities.</p>
Performance indicators and targets	<p>With the adoption of its Strategic Framework, FAO has developed a systematic approach to monitoring the impact of the organisation's instruments and processes using qualitative indicators and targets that are set out in the Programme Planning, Implementation Reporting and Evaluation Support System (www.fao.org/piir/en/).</p> <p>The UNODC Terrorism Prevention Branch uses several indicators such as the increase in the number of States assisted by UNODC becoming parties to the international legal instruments, the number of assisted countries drafting legislation and the number of national officials trained.</p> <p>The WCO has a Strategic Plan which defines the baseline information, the objectives and deliverables, as well as qualitative and quantitative Key Performance Indicators which are reviewed by the Council, Policy Commission, Finance Committee and Audit Committee.</p>
Country and thematic case-studies (data collection through interviews, review of documentation and staff visits to members)	<p>OIE conducts thematic case studies to identify specific impacts. For instance, the study on Estimating the cost of National Prevention Systems for Animal Diseases and Zoonoses had the following methodology: i) definition of the boundary of the National Prevention System (NPS); ii) identification of main functional units of the NPS at central and sub-national level, to allow comparisons of key cost centres; iii) development of the approach for cost assessment; iv) selection of case study countries; v) data collection through a review of literature and databases, a questionnaire survey, and country visits of the core expert team; vi) comparative analysis of the costs of the National Prevention System in case study countries and analysis of factors that influence these costs.</p> <p>PIC/S has pre-assessment, assessment and re-assessment procedures during which members or applicants are assessed for their compliance to PIC/S requirements. This includes a gap analysis as well as a review of the Good Manufacturing Practice of medicinal products (GMP) inspection system against PIC/S requirements. The gap analysis and review is done according to standardised procedures and tools, which include a qualitative review of the documentation and an on-site assessment visit of the country to ensure that policies and procedures are effectively applied.</p> <p>UNECE receives country reports on the impact of some of its instruments. From time to time it reviews the extent to which its instruments are used. Methodology varies and is determined by the instruments, including inter alia development of specific case studies and ad hoc staff visits to member countries.</p>

Table 4.1. Methodologies used for assessing the benefits and costs produced by IRC (*cont.*)

Methodology	Examples from IOs
Gathering of information through dedicated national contact points	IATA uses its network of local managers to gather information in order to have a global view of implementation, and therefore the benefits which subsequently accrue to members and consumers. A business case is typically put together which aids in the quantitative assessment and helps IATA prioritise which standards or programmes to focus on. The numbers and data in that business case are validated by airline working groups.
Use of external consultants/evaluation	OIML has attempted to assess the benefits and costs of its IRC activities by means of expert reports. One example is the OIML report on the Benefit of Legal Metrology for the Economy and Society, www.oiml.org/en/files/pdf_e/e002-e03.pdf . UNODC resorts to audits and independent evaluation. OIF also resorts to external evaluation (see www.francophonie.org/Evaluation-externe-du-Programme.html).
Internal audit	OSCE has an internal audit function that reviews the impact and monitors the adequacy, efficiency and effectiveness of the organisation's work. In addition to reporting by members and staff reviews, the IMF has an internal 5-year review process led by the Executive Board (for example: www.imf.org/external/np/sec/pn/2011/pn1138.htm).

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