



COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

Hundred and Nineteenth Session

Rome, 9-11 October 2023

Activities of the Development Law Branch – Information Report

I. Introduction and Background

1. The Development Law Branch (LEGN) of the FAO Legal Office advises the Organization and its Members on legal and institutional means to support sustainable and inclusive agrifood systems transformation. In particular, LEGN supports Members to establish regulatory frameworks that govern the agrifood value chain. These frameworks provide a structured legal basis for developing, managing and monitoring production, processing, distribution, and consumption of food, as well as promoting the sustainable use and protection of natural resources and the environment. Regulatory frameworks also create a conducive environment for investment, innovation, and equitable distribution of benefits throughout the agrifood value chain, and play a crucial role in providing legal protection and recourse mechanisms.

2. Recently, there has been increasing attention to the need for regulatory instruments to achieve the Sustainable Development Goals (SDGs) under the 2030 Agenda for Sustainable Development (2030 Agenda) and the *four betters* which, under FAO's Strategic Framework 2022-31, support achievement of the 2030 Agenda. This emphasizes the essential role of LEGN in delivering the core functions of FAO, in particular to:

*facilitate and support countries and other partners in the development and implementation of normative and standard setting instruments for more efficient, inclusive resilient and sustainable agri-food systems, such as international agreements, codes of conduct, technical standards and related technologies, digital tools, good practices and others.*¹

3. LEGN presents this Information Report on the continued expansion of its work in line with the Organization's work programme and priorities, driven by the increasing calls for legal frameworks to support agrifood systems, including addressing climate change impacts in the food and agriculture sectors.² It outlines the current status of initiatives of the Legal Office to adopt a more systematic and

¹ FAO 2021, Strategic Framework 2022-31, page 13.

² The information builds on past Reports to the CCLM, reflecting LEGN's responses to the related recommendations of the CCLM endorsed by the Council. See CL 150/2, paragraphs 28 and 29; CL 165/12, paragraphs 22 to 25 and paragraph 3 of the Executive Summary, CL 165/REP, paragraph 28.

programmatic approach to fulfill LEGN's mandate. Lastly, the paper reflects on the strengthening of LEGN's capacity to deliver relevant and timely technical assistance for sustainable agrifood systems.

4. Since its last report, LEGN continued to work with internal and external partners in strengthening national legal frameworks to support inclusive and sustainable agrifood systems transformation. Highlights of LEGN's support are provided in Part 1 of the Web Annex. An overview of LEGN's technical legal assistance to Members is provided in Part 2 of the Web Annex and a normative overview is provided in Part 3 of the Web Annex.

II. Activities, results and future work

A. Development and implementation of international treaties

5. LEGN frequently collaborates with technical units in FAO's participation in the negotiation of new treaties. It also supports the implementation of existing treaties, through participation in their governing bodies' sessions, and the execution of the resolutions and decisions of such governing bodies that are of relevance to FAO. LEGN's contribution, involving a unique combination of expert advice to Members on aspects of international law and thematic and technical matters, enhances outcomes of the negotiation process and the effective implementation of the existing instruments. Its advice also extends to the integration of the requirements under international instruments in national legislation or policy frameworks.

i. *Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ Agreement)*

6. LEGN supported FAO's input to the Intergovernmental Conference (IGC) convened under the auspices of the United Nations, pursuant to UNGA Resolutions [72/249](#) and [69/292](#) "to elaborate the text of an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, with a view to developing the instrument as soon as possible".³ The IGC agreed to a finalized text in March 2023 and adopted the BBNJ Agreement at its resumed fifth Session in June 2023. LEGN's participation contributed to ensuring that existing international and regional instruments are not undermined and that, *inter alia*, fisheries bodies are consulted in the establishment of marine protected areas, the conduct of Environmental Impact Assessments and marine scientific research. LEGN and the Fisheries and Aquaculture Division of FAO are analysing the implications of the BBNJ Agreement so that FAO is prepared to advise Members on its implementation and for capacity development once the BBNJ Agreement enters into force.

ii. *Intergovernmental Negotiating Committee to develop an international legally binding instrument on plastic pollution, including in the marine environment*

7. LEGN and technical divisions of FAO are supporting deliberations of the Intergovernmental Negotiating Committee (INC) established by UNEA Resolution [5/14](#) of March 2022 to develop an international legally binding instrument on plastic pollution (the Plastics Treaty). In particular, LEGN is contributing with comments on the scope and type of the legal instrument to be developed.

8. LEGN is also supporting the development of an FAO Voluntary Code of Conduct on the sustainable use of plastics in agriculture, in parallel to the development of the Plastics Treaty, having supported the drafting of a paper presented at the Twenty-eighth Session of COAG on this subject.⁴ This latter addressed how a soft law instrument can complement the implementation of a future Plastics Treaty in the food and agriculture sectors.

³ UNGA Resolutions [A/RES/72/249](#), paragraph 1.

⁴ COAG/2022/16. [Guidance on use of agricultural plastics](#).

iii. *WHO convention, agreement or other international instrument on pandemic prevention, preparedness and response*

9. As a member of the Quadripartite comprising FAO, the UN Environment Programme (UNEP), the World Health Organization (WHO) and the World Organisation for Animal Health (WOAH), FAO participates as an observer in the negotiations of the Intergovernmental Negotiating Body (INB) for the development of a convention, agreement, or other international instrument on pandemic prevention, preparedness and response. The INB was constituted following the Second special session of the World Health Assembly in 2021, as a response to the COVID-19 pandemic, to strengthen the solidarity and equity within, and efforts of, the international community.⁵ The Quadripartite is advocating for a comprehensive approach to pandemic prevention, addressing the root causes of pandemics through a One Health approach and recognizing the importance of the human-animal-environment interface in disease prevention and control.

10. LEGN supported the review of the draft instrument elaborated by the Bureau of the INB, proposing adjustments to the text and preparing advocacy materials for the Geneva-based group of countries that comprise the One Health Group of Friends. LEGN also contributed to reviewing the Political Declaration of the United Nations General Assembly High-Level Meeting on Pandemic Prevention, Preparedness and Response of 20 September 2023 in New York.⁶

iv. *WTO Agreement on Fisheries Subsidies*

11. The [Agreement on Fisheries Subsidies](#) was adopted on 17 June 2022, during the 12th Ministerial Conference of the World Trade Organization (WTO).⁷ Article 7 of the Agreement identifies FAO as one of the “*relevant international organizations*” for implementation. LEGN was part of FAO's efforts in supporting the negotiation of the Agreement. It is preparing to deliver capacity development initiatives for WTO Members to assist them to implement the Agreement.⁸

v. *Implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)*

12. LEGN has been collaborating with the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) on the implementation of CITES in the fisheries sector. As part of this collaboration, LEGN co-delivered 3 regional training workshops on these topics for representatives from CITES and fisheries national authorities – the first for 9 Pacific countries in 2021, the second for 11 Caribbean countries in 2022, and the third for 13 Spanish-speaking countries in the Latin America and the Caribbean region in May 2023. At the 32nd meeting of the CITES Animals Committee, LEGN, the CITES Secretariat, the UN Conference on Trade and Development and the Organization of Eastern Caribbean States hosted a side event on strengthening institutional cooperation for improving sustainability and legality findings in the fisheries sector. LEGN is currently developing CITES-LEX – a new FAOLEX subset database of legislation – dedicated to CITES implementation.

⁵ World Health Assembly Second special session. 2021. Agenda item 2. SSA2(5) “[The World Together: Establishment of an intergovernmental negotiating body to strengthen pandemic prevention, preparedness and response](#)”.

⁶ Letter from the President of the General Assembly – Pandemic Prevention, Preparedness and Response HLM Co-facs Letter – [Zero Draft of the Political Declaration](#).

⁷ WTO Agreement on Fisheries Subsidies, available at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN22/33.pdf&Open=True>.

⁸ A recent LEGN contribution was the provision of inputs to an event for the closing week of the International Year of Artisanal Fisheries and Aquaculture on 31 March 2023 where potential impacts of the Agreement on Fisheries Subsidies on small-scale fisheries (SSF) and the need to provide legal protection for SSF were highlighted.

13. FAO's work on the Sustainable Wildlife Management Programme also touches upon CITES issues and it is supporting the Forestry Division in finding ways of strengthening FAO/CITES collaboration in the area of wildlife.

14. There is an increasing interest among CITES members to work on the interface between the international trade of protected species and the international movement of pathogens and occurrence of diseases. With legal frameworks and related legal aspects underpinning the interventions of FAO, LEGN, as part of FAO's One Health Team, works to ensure that there is appropriate collaboration between CITES, WOAHA and FAO on matters related to zoonosis management and animal disease within the realm of CITES.

B. Looking forward: a programmatic approach to legal assistance

15. For over 30 years, LEGN has provided legal technical assistance to FAO Members. This has been predominantly through technical cooperation projects funded under FAO's Technical Cooperation Programme (TCP), donor country-funded global cooperation projects (GCP), or funded by global facilities such as the Global Environment Facility (GEF), the World Bank or the Green Climate Fund (GCF). This assistance is provided in response to specific country requests and, in most cases, is provided as a legal component of projects initiated by one or more of FAO's technical Divisions or Decentralized Offices.

16. In response to growing demands, and taking into account the inherent complexities and challenges of agrifood systems governance, LEGN recognized the need to adopt a more systematic and integrated programmatic approach to legal assistance provided by FAO. This broader approach enables the multifaceted and cross-sectoral dimensions of agrifood systems regulations to be addressed more effectively. It also facilitates identification of common legal themes and challenges within countries, regions, and sectors. It will ensure targeted, long-term impact, through initiatives that build legal capacity, foster inclusive and effective governance, support compliance and strengthen enforcement efforts. These programmes, described below, have been under development and are now moving into implementation.

17. In this context, LEGN has also taken a more dynamic approach to allocating and raising resources. Typically, LEGN has mainly contributed limited legal components as add-ons to technical interventions. Now, the fundamental need for effective and sustainable regulation is recognized by placing legal support at the heart of technical interventions as well as in requests for resources for those interventions, serving FAO Members better in transforming their agrifood systems by making them more sustainable. Thus, LEGN is taking a more proactive approach to resource mobilization, especially in support of the initiatives outlined below.

i. Governing for sustainable agrifood systems: strengthening legislation and building capacity to support implementation, compliance, and enforcement

18. The Programme on Implementation, Compliance, and Enforcement of Agrifood Systems Law (PICEASL) is designed to address the significant challenges arising from insufficient national capacity and resources, which have led to weak implementation in the agrifood sector. Recognizing the vital role of legislation in achieving these objectives, PICEASL will support countries to strengthen their implementation, compliance, and enforcement capacity, ensuring that regulatory instruments hold true meaning and have a lasting impact. PICEASL will also incorporate components that ensure or provide linkages with complementary initiatives to deliver substantive sustainable capacity building including the training of trainers on sustainable agrifood systems law, institutionalizing continued learning and the mainstreaming of regulatory impact assessments in the delivery of legal assistance to FAO Members.

19. Since the last reports to CCLM and Council, there have been two important milestones. Firstly, a request for funding for PICEASL was submitted to FAO's Flexible Voluntary Contribution (FVC), resourced from the Programme of Work and Budget (PWB). Secondly, engagement with countries from the Pacific Small Island Developing States (PSIDS) and the Least Developed Countries

(LDCs) in Southern Africa has resulted in a positive response, with all countries expressing eagerness for the implementation of the Programme in their respective nations.

ii. Supporting legislative readiness to address climate change impacts

20. The agriculture sector⁹ is the largest contributor of non-CO₂ greenhouse gas (GHG). Increasing climate variability and more frequent extreme weather events have a detrimental impact on agricultural production. Many developing countries' economies dependent on agriculture are suffering annual losses in gross domestic product (GDP) as a result. Moreover, damage to small-scale producers and rural farming communities is disproportionate, with increasing effects on food security and livelihoods, leading to climate-induced migration and related conflicts.

21. The agriculture sector's relationship with climate change has received relatively less attention than other sectors with respect to legal and policy frameworks. Ensuring that climate change related global commitments translate into meaningful implementation at the national level requires sound national regulatory and institutional frameworks to ensure "legislative readiness". Well-designed agriculture sector legal frameworks, informed by the best available science and global best practices and based on policy priorities, ensure that a country is well-placed to implement its climate change objectives in a sustainable manner, thus enhancing its readiness status.

22. LEGN and FAO's GCF Unit have developed a readiness information note for formulating proposals to enhance legislative readiness for climate-smart agriculture as an integral part of developing countries' readiness efforts. Two PSIDS have recently indicated interest in LEGN's readiness proposal with the intention of collaborating in 2023/24 in undertaking legislative readiness activities.

iii. FAOLEX: digital innovations for enhanced legal access and service

23. FAOLEX maintains its commitment to expanding and refining its collection of legal and policy documents, with a particular focus on food, agriculture, and natural resources. LEGN continues to provide legal technical assistance using FAOLEX as a source of legal information and a global public good while investing in digital innovation. One of FAOLEX's promising innovations is the development of a purpose-built automation tool to identify FAOLEX subject matter metadata within text documents, one of the various tasks undertaken by FAOLEX legal information specialists. This tool assists said specialists by scanning documents and providing suggested terms from the FAOLEX taxonomy thereby enhancing the quality of the data entry and allowing final users to better navigate the data by more accurate and extensive tagging.

24. FAOLEX is committed to further enhancing its capabilities. Proposed innovations include website migration to ensure a seamless user experience and the use of available tools and innovations for enhanced user support, classifying its full collection of documents (around 200,000) to reflect their alignment with the SDGs and targets, greater automation of data entry and document collection processes, and incorporation of FAO legal publications into its repository.

III. Suggested action by the Committee

25. The Committee is invited to take note of this Information Report and provide guidance as it deems appropriate. The Committee may wish, in particular, to consider:

- a) underlining the importance of sound national and international legal frameworks – including frameworks developed outside FAO – to support the inclusive and sustainable transformation of agrifood systems; and

⁹ GHG emissions in particular from livestock and rice cultivation including manure, nutrient management and biomass burning, are mainly methane (CH₄) and nitrous oxide (N₂O).

- b) acknowledging the contribution of the FAO Legal Office through its Development Law Branch in that context, as well as the need for adequate resources to support the Members' development of their national legal frameworks.