



**UNITED NATIONS
OFFICE OF LEGAL AFFAIRS**

Sixth Annual Meeting of International Organizations

**- International Organizations: Their Role in International Regulatory Co-
operation –**

Opening remarks

by

Mr. Miguel de Serpa Soares

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Mr. Dancey [CEO, International Federation of Accountants]

Mr. Gurria [Secretary-General of the OECD],

Distinguished participants,

Ladies and Gentlemen,

I am pleased to be with you this morning to offer some remarks to set the scene for this high-level panel on the landscape and functioning of international rule-making. The questions before us: how international organisations can enhance the effectiveness of their contributions to the rule-based international system and its impact, and how they can foster synergies between rule-making at the international and domestic levels, are questions that we regularly ask ourselves in my Office, the United Nations Office of Legal Affairs.

A significant part of the mandate of my office involves precisely this type of rule-making, namely the codification and progressive development of international law. In fulfilling our mandate, we support intergovernmental processes in legal texts on a diverse range of topics, notably public international law, the law of the sea and the law of international trade.



But first of all, let me say a few words about law-making by our Member States:

The United Nations General Assembly, based on Article 13, paragraph 1 (a), of the Charter of the United Nations has made a significant contribution to fostering effective rules for globalization. Law-making through the General Assembly works similarly to the cycle of regulatory governance used by the OECD to describe the role of international organization in international regulatory cooperation.

The General Assembly, through its Sixth Committee, identifies topics of international law that are ripe for codification or progressive development, and requests the International Law Commission to take up the task. Alternatively, the International Law Commission, which is a body of experts in general international law, proposes topics of its own volition.

The Commission proceeds by setting up a roadmap and appoints a Special Rapporteur who recommends a project design and outcome for the topic. Based on research and policy analysis, the Special Rapporteur suggests draft rules and standards, including commentaries, which the Commission discusses and adopts as a collective.

This process is closely monitored by Member States, which comment on the work of the Commission on an annual basis, and other interested stakeholders. Member States also evaluate the final outcome of the Commission's work, which is typically taken note of in the form of a General Assembly resolution.

The draft articles elaborated by the Commission on topics such as the law of treaties or diplomatic and consular relations are then codified at diplomatic conferences. In more recent times, the Commission has increasingly prepared non-binding instruments such as guidelines, principles or conclusions. Those instruments have informed regulatory practices among States, international organizations and also non-State actors in a wide range of areas.

Let me now take you back to the topic of today's meeting.

The focus of your discussion is on multilateral cooperation to build better rules of globalisation for our businesses and citizens through the Partnership for Effective





International Rule-making, which is ably led by our colleagues in the OECD. One of the Divisions of my Office is the International Trade Law Division, probably better known to you in its function as the Secretariat of the United Nations Commission on International Trade Law (UNCITRAL). UNCITRAL's mandate – the progressive harmonization and modernization of the rules governing international commercial transactions – is of obvious relevance to the questions we are here to consider.

UNCITRAL is now best known for its legal texts for international business – covering setting up and financing businesses, selling and transporting their products and services, often now through the digital economy, resolving business disputes and, in some cases, winding-up businesses that fail. The texts are developed in an intergovernmental process, in which States from all geographical regions and from different legal traditions and levels of economic development take part, supported by intergovernmental organizations and international NGOs with relevant expertise. The development process is characterized by transparency, openness, inclusiveness, and multilingualism, and contributes to the success of UNCITRAL texts.

This is illustrated by the 115 State delegations and over 50 IGOs and NGOs taking part last week in the Working Group III of UNCITRAL here in New York. Based on exchanges of experience from all participating, they are considered widely-acceptable. Indeed, UNCITRAL has no power to require the use of its texts - they require domestic implementation, adoption or ratification, and, unless States are persuaded that they are relevant to them, they will languish on the bookshelves.

The process is clearly well-conceived and is critical to the effectiveness of UNCITRAL's rule-making activity. However, constraints arise in practice: not only may the attentions of States be devoted to other issues competing for attention in the global community, but the costs of preparing for and participating in week-long sessions in New York and Vienna can be daunting.

They have been observed to operate as a disincentive to participate, particularly for developing countries.

However, when the General Assembly established UNCITRAL in 1966, rule-making was not intended to be its primary function.





The priority was coordination and cooperation of “the work of organisations active in the field of international trade law”, particularly regional agencies and those supporting developed countries, and with relevant UN bodies such the United Nations Conference on Trade and Development. The reason was clear: to avoid the waste and of resources and diluted impact that result from uncoordinated and duplicate efforts.

I recognize that we – here meaning the community of international organizations – can use our power to persuade both organizations and States of the mutual benefits that cooperation and coordination will bring.

From the United Nations’ perspective, the opportunity that we have to support developing countries, in particular, and so to leave no-one behind as the SDGs have pledged to do, encourages us to invest time and effort in coordination and cooperation.

For this reason, I am delighted that the United Nations Office of Legal Affairs is able to contribute to the efforts of this group in promoting inclusive, evidence-based and coordinated international rule-making, and look forward to hearing from all of you.

My colleague Ms. Anna Joubin-Bret, the Secretary of UNCITRAL and Director of ITLD, will give you examples of how this cooperation works in UNCITRAL, and will share some experiences that we hope will make a positive contribution to the work of this partnership.

With that, I wish you a successful meeting and fruitful discussions. Thank you.

