

*Check against delivery*

**THE UN @ 75: INTERNATIONAL LAW AND THE FUTURE WE WANT**

**INTERNATIONAL LAW DAY 2020**

**MONDAY, 26 OCTOBER 2020, AT 10:00 (NY TIME)**

**STATEMENT OF THE UNDER-SECRETARY-GENERAL FOR LEGAL AFFAIRS AND  
UNITED NATIONS LEGAL COUNSEL**

**MR. MIGUEL DE SERPA SOARES**

Excellencies,  
Distinguished delegates,  
Ladies and gentlemen,

I am delighted to celebrate International Law Day with you today. This International Law Day cannot replace International Law Week. But it offers an opportunity to reflect on the many great achievements of the United Nations in international law-making and the importance of international law for all of us. The theme of today's event is "International law and the future we want". So, let me ask: Which future do we want, and what is the role of international law in creating that future?

We have heard insightful contributions discussing this question by my distinguished co-panelists. In my view, what the founders of the United Nations said in 1945 still holds true today. We want peace and prosperity for all. This does not mean that we have not achieved the ambitious goals that the founders set out in the Charter of the United Nations. We have come a long way in the past 75 years. Today we have a stable international order and many mechanisms to prevent and address "the scourge of war". We also have created the means to promote social progress and better standards of life in larger freedom.

It is undebated that international law has played a pivotal role in creating this stable international order and better standards of life. International law figures prominently in the purposes of the United Nations. As Article 1 of the Charter highlights, principles of justice and international law are decisive in preventing breaches to the peace, developing friendly relations among States, and achieving international co-operation in solving international problems of an economic, social, cultural, or humanitarian character.

Nonetheless, it should not be forgotten that the Dumbarton Oaks Proposals for the Establishment of a General International Organization did not give a prominent place to international law. The only reference was in a paragraph that was intended to prevent the application of international law in the case of "domestic questions". The prominence that international law has in the Charter today is the result of amendments during the San Francisco Conference. More importantly, this prominence results from the development of international law into a framework that has allowed us to ensure and work towards peace and prosperity over the past 75 years. As the Secretary-General noted during the ceremony marking the 75th anniversary of the United Nations, the progressive development of international law is one of its historic accomplishments.

The Secretary-General's remarks illustrate that the United Nations has played a critical role in the development of international law. In fact, I consider the United Nations to be at the centre of international law-making. The vital instruments that form the architecture of the international legal order were all drafted and adopted within the framework of the United Nations. Many of those instruments were prepared by the International Law Commission and finalized by the Sixth Committee and multilateral conferences convened under the auspices of the United Nations.

Today the phrase “treaty fatigue” has become popular in the halls of the United Nations. States are said to be reluctant to engage in multilateral treaty-making. Still, I would like to recall that important treaties have been negotiated in more specialized fields in recent years. To name only a few: the Arms Trade Treaty, the Treaty on the Prohibition of Nuclear Weapons, and the Singapore Convention on Mediation. We are also in the middle of negotiations on an international legally binding instrument on marine biodiversity in areas beyond national jurisdiction. I don’t need to mention the law-making activities on-going in the various specialized agencies and organizations across the United Nations system. The genius of the founders was to create the conditions for decentralized law-making.

Moreover, international law-making at the United Nations does not only produce hard law instruments. The United Nations has over the years elaborated declarations and non-binding rules that form the bedrock of international affairs. Indeed, we have been reminded earlier today that this week is the 50th anniversary of the adoption of one such seminal text, namely the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States. Such instruments may reflect existing law or contribute to the crystallization of new international law. They contribute to peaceful and prosperous international relations for all.

The past 75 years have demonstrated that the framework for international law-making is effective. This framework consists of at least two strong pillars. First, the United Nations as the institutional forum that facilitates international norm-making across various fields. And second, rules of international law that allow for the peaceful and constructive exchange of views between nations from different regions of the world and legal traditions. Examples of such rules include the Vienna Convention on Diplomatic Relations and the Vienna Convention on the Law of Treaties. Those conventions have proven to be firm cornerstones of the international

law architecture. They continue to be refined by the International Law Commission through guiding principles, conclusions, or guidelines that reflect contemporary practice.

The United Nations is not only at the centre of international law-making but also at the centre of international law implementation. Various United Nations institutions in all shapes and sizes participate in the realization of international law. Over the past 75 years, we have witnessed the emergence of many international courts and tribunals. This so-called “judicialization of international law” has also come with challenges raising concerns about the fragmentation of international law. And yet, international courts and tribunals cross-fertilize and speak to each other, and their case law also enriches domestic jurisprudence. The law has become diversified. The International Court of Justice, as the principal judicial organ of the United Nations, remains the guardian of general international law and ensures the coherence of the international legal order.

Non-judicial United Nations organs such as the Security Council and the General Assembly have equally played a crucial role in implementing international law. The Security Council has increasingly made reference to international law in its different country-specific and thematic resolutions. At times, the Council refers to violations of international law when imposing targeted sanctions. Although General Assembly resolutions are non-binding on Member States, they contribute to the implementation of international law in manifold ways. The Assembly has also established different institutions such as the Human Rights Council, and commissions of inquiry or fact-finding missions to investigate international law violations. Also, the Assembly regularly requests advisory opinions from the International Court of Justice, which has clarified important questions of international law.

As the representative of the Secretary-General at this celebratory event, I would also like to say a few words about the role of the Secretariat

in the making of international law and its implementation. The Secretariat has been at the forefront of the evolution of international law. One striking example is the concept of peacekeeping, which was elaborated by the second Secretary-General Dag Hammarskjöld during the 1956 Suez crisis. Nowadays, peacekeeping operations are an indispensable part of the Organization's functions, even though they are not mentioned in the Charter. By recognizing the United Nations' international legal personality in the *Reparations for Injuries* advisory opinion, the International Court of Justice paved the way for the United Nations' contribution to international law-making and implementation. The newly established Court thus showed how the different organs of the United Nations balance and mutually reinforce each other in fulfilling the purposes and principles of the United Nations.

This look back at the past makes me optimistic about the future we need. The United Nations offers a forum for Member States to tackle the pressing challenges of our times, which were identified in the global survey on the UN@75. As discussed by my co-panelists, such challenges include sustainable development, the fight against climate change, ensuring respect for human rights and ending conflicts. The United Nations is the only multilateral forum to address such challenges comprehensively. It is the only place to ensure peace and prosperity for all, based on the principle of sovereign equality of its Member States.

I believe that we will be successful in our continuous quest for a peaceful and prosperous international order. While multilateralism and multilateral institutions such as the United Nations are currently going through turbulent times, this is not a new phenomenon. The United Nations has faced many challenges since its creation, and it has overcome all of them. But we cannot be complacent. We have to be attentive and listen to other voices in a globalized village that has become smaller. International law is both a driving force and the outcome of a success story whose final

chapter is yet to be written. Thanks to the United Nations and its many organs and subsidiary bodies such as the General Assembly, the International Court of Justice, and the International Law Commission, the foundational infrastructure is in place to imagine and implement the future we want.

Thank you very much.