



**UNITED NATIONS
OFFICE OF LEGAL AFFAIRS**

Capacity-Building Program on International Law and Cyberspace

jointly organized by

the African Union Commission,

**Global Affairs Canada, the AU Legal Counsel, and the AU Commission on
International Law**

Opening remarks

by

Mr. Miguel de Serpa Soares

Under-Secretary-General for Legal Affairs and
United Nations Legal Counsel,

9.00 a.m., Wednesday, July 19, 2023

Excellencies,

Distinguished delegates and colleagues,

I would like to thank the organizers for the invitation to address the participants in this new workshop of the Capacity-Building Program on International Law and Cyberspace which constitutes a further step in the ongoing efforts of the African Union to develop a common African position on the application of international law in cyberspace.



The world today is radically different from the one in which the Charter of the United Nations was drafted, more than 75 years ago. Today, we are more connected and interdependent than we ever were. The information and communications technologies that we now take for granted have revolutionized the way we live. They continue to enable us to harness different ideas and increase productivity, improving lives all over the world.

In his recent Global Digital Compact on an “Open, Free and Secure Digital Future for All”, the Secretary-General highlighted that “digital technologies today are similar to natural resources such as air and water”, but warned that

“as much we are adapting our stewardship of energy and water in the climate crisis, we must collectively address the risk of digital harms and maximize the potential for common good.” This strong message followed the warning the Secretary-General already voiced in his report on “Our Common Agenda” where he pointed to “serious and urgent ethical, social and regulatory questions” which confront us, “including with respect to the lack of accountability in cyberspace”.

I note that there are on-going discussions on these issues at the intergovernmental level, including in processes currently held within the United Nations, and I would like to take this opportunity to highlight some of the findings and recommendations regarding the applicability of international law that have emerged from these intense consultations.





In its 2021 report, the Group of Governmental Experts on Advancing Responsible State Behaviour in Cyberspace in the Context of International Security reaffirmed that “international law, and in particular the Charter of the United Nations is applicable and essential to maintaining peace and stability and for promoting an open, secure, stable, accessible and peaceful ICT environment.” Accordingly, the Group noted that “state sovereignty and international norms and principles that flow from sovereignty apply to the conduct by States of ICT-related activities” and that “existing obligations under international law are applicable” to such activities.

Nevertheless, debates within another UN forum, the Open-ended working group on developments in the field of information and telecommunications in the context of international security, have also demonstrated that States hold diverging views on many topics, including how exactly international law applies to ICT-related activities.

These include questions on the applicability of state responsibility given the actors involved; state sovereignty in the context of technology infrastructure; measures a state may take under international law as cyber defense measures, to name a few. In that regard, some States participating in the open-ended working group have also highlighted that “questions relevant to how the principles of international humanitarian law, such as principles of humanity, necessity, proportionality, distinction and precaution, apply to ICT operations” should also be included in future discussions.

There is a need to urgently address these unique challenges presented by sophisticated and continually evolving technologies. In my view, a meaningful





role should be given to clarifying the applicability of existing international law in this context as there is no longer any doubt that international law, and in particular the UN Charter, is applicable and essential to maintaining peace and stability and for the promotion of an open, secure, stable, accessible and peaceful ICT environment.

For these reasons, it is critical for Member States to arrive at a common understanding of not only the issues and challenges currently present in the field of cyber technologies, but also of any desirable legal frameworks that would allow for the development of ICT-related activities for the common good.

I therefore salute the efforts deployed by the African Union Commission, Global Affairs Canada, the AU Legal Counsel, and the AU Commission on International Law towards the development and organization of this capacity building program on the application of international law in cyberspace for African delegates serving here at the United Nations. Looking at the program of these intense two-and-a-half days ahead of you, I have the feeling that the upcoming presentations and discussions will assist the member states present today to better develop and articulate their position on these critical issues, allowing them to make significant contributions to the future meetings of the intergovernmental processes related to ICT-activities.

Thank you.

