



Snapshots of IO Practices

Co-ordination of the Activities of Organisations Active in the Field of International Trade Law and Encouraging Co-operation among them

Organisation(s): The United Nations Commission On International Trade Law (UNCITRAL)

The Snapshots of IO Practices present examples of specific efforts undertaken by an international organisation to work towards more effective international instruments. They aim to highlight examples of practices within the five focus areas of the Partnership of International Organisations for Effective International Rulemaking (IO Partnership), namely the variety and development of international instruments, their implementation, evaluation, ensuring stakeholder engagement, and co-ordination among IOs. The snapshots are submitted by the secretariats of the relevant international organisations implementing the relevant practice. The practices were compiled by the OECD Secretariat and focal points of the IO Partnership (UNCITRAL, OIE, WHO, ISO, WCO, BIPM, and SIECA), with a brief review to ensure consistency and comparability of the information provided within the snapshots. The inclusion of a practice in these snapshots implies no endorsement or assessment of that practice on the part of the OECD Secretariat or the focal points of the IO Partnership.

1	Overview of the Practice	Answers	Comments and Intersections
1.1	Organisation	The United Nations Commission On International Trade Law (UNCITRAL)	
1.2	Area of relevance among the IO partnership focus themes (variety of instruments, implementation, stakeholder engagement, evaluation, co-ordination)	Co-ordination in the Development of International Instruments	
1.3	Name of the Practice	Co-ordination of the activities of organisations active in the field of international trade law and encouraging co-operation among them	
1.4	Name of person(s) completing the template	Caroline Nicholas, Head Technical Assistance	

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2	Description of the Practice	Answers	Comments and Intersections
2.1	Please describe the practice shortly, providing information on its core features.	<p>The co-ordination of the activities of organisations active in the field of international trade law is a core element of UNCITRAL's mandate, conferred to avoid duplication of efforts and to promote efficiency, consistency and coherence in international trade law reform. These co-ordination activities encompass three distinct areas (see <i>United Nations Coordination Activities (A/CN.9/1018)</i>, available at https://undocs.org/en/A/CN.9/1018):</p> <ol style="list-style-type: none"> 1. Joint Activities and Meetings: following the work of and communicating with organisations active in the field of international trade law, including actively participating in the activities and meetings of the relevant organisations and inviting them to participate in UNCITRAL's work (by, e.g. presenting reports at annual meetings) 2. Research: preparing general surveys and in-depth reports to facilitate the monitoring developments in international trade law; and, 3. Adoption of Instruments: enabling the use and adoption of instruments developed by other international organisations in UNCITRAL's activities. <p>In practice, UNCITRAL (through its Secretariat) follows the work of, and communicates with, other organisations active in the field of international trade law, actively participating in their activities and meetings, and inviting them to participate in UNCITRAL's work. They present reports on their activities to UNCITRAL's annual sessions. The Secretariat has also established on-going relationships with other international organisations in international trade law.</p>	The co-ordination activities conducted by the UNCITRAL Secretariat (WG5) intersect with the development of international instruments (WG1).

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2.2	What are the objectives of the practice?	<p>The primary purpose of the practice is to to avoid duplication of efforts and to promote efficiency, consistency and coherence in the harmonisation and modernisation of international trade law.</p>	
2.3	What have been the key results of the practice?	<p>This practice has allowed UNCITRAL to co-ordinate and engage in joint activities with other rule-formulating agencies in international trade, eg the Hague Conference on Private International Law (HCCH) and the International Institute for the Unification of Private Law (Unidroit). For a description, see United Nations document <i>Coordination Activities</i> A/CN.9/1018.</p> <p>The practice also led to joint texts, allowing States to use the various instruments to reform their national systems cohesively: see, for example the UNCITRAL, Unidroit and HCCH Comparison and analysis of major features of international instruments relating to secured transactions, available at https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/uncitral-hcch-unidroit-e.pdf, and a joint Legal Guide to Uniform Instruments in the Area of International Commercial Contracts, with a Focus on Sales, in 2020. This Guide provides an overview of the three organisations' complementary international instruments in this field (available at https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/tripartiteguide.pdf).</p> <p>In addition, UNCITRAL has regularly endorsed the use of standards from other organisations, most recently the Uniform Rules for Forfeiting of the International Chamber of Commerce, and Incoterms® 2020. For such endorsed texts, see https://uncitral.un.org/en/texts/endorsed. Other organisations have also recommended and endorsed the adoption of UNCITRAL texts.</p>	

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2.4	In what year was the practice introduced?	1966 (when UNCITRAL was established).	
2.5	Has the practice been updated/reformed since then? If yes, when and how has it evolved over time?	<p>Yes.</p> <p>The original intention was for UNCITRAL to act as a 'kind of international clearing-house to co-ordinate and supervise' the work of other rule-formulating agencies which were regional or aimed at developed countries (see <i>Official Records of the General Assembly, Twenty-first Session, Report to the Secretary General</i> ("The Schmitthoff Study") (A/6396), available at https://uncitral.un.org/en/commission/archivaldocs). When UNCITRAL was established, it was mandated to 'establish [...] and maintain [...] a close collaboration with the United Nations Conference on Trade and Development (UNCTAD)' and maintain 'liaison with other United Nations organs and specialised agencies concerned with international trade' (see General Assembly Resolution 2205 (XXI) of 17 December 1966, https://undocs.org/en/A/RES/2205(XXI) – this document sets out UNCITRAL's mandate).</p> <p>Initially, under this mandate and reflecting activity #2 noted in section 2.1 above, UNCITRAL through its Secretariat prepared an annual general survey of the activities of other organisations related to international trade law, entitled "Coordination of Work" – see the last such report https://undocs.org/en/A/CN.9/380. However, compiling this report became ever more resource intensive as the number of international and regional legal harmonisation efforts increased.</p>	

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		<p>The function has evolved, so that now UNCITRAL maintains close links with international and regional organisations including those in Section 2.3 above, and other inter-governmental and non-governmental organisations such as the multilateral development banks and national aid agencies. Many are active participants in the work programme of UNCITRAL and in the field of international trade law reform, and the links facilitate the exchange of ideas and information, and the issue of joint instruments as noted above. For an example in the field of insolvency involving UNCITRAL and the World Bank, see https://www.worldbank.org/en/topic/financialsector/brief/the-world-bank-principles-for-effective-insolvency-and-creditor-rights.</p>	
2.6	What do you consider to be the primary strengths of the practice?	The practice allows States using complementary international instruments on international trade law emanating from different IOs effectively in national law reform.	
2.7	What do you consider to be the main challenges faced during the implementation of the practice?	When this aspect of the UNCITRAL mandate was discussed at the establishment of UNCITRAL, views differed on how this function might be undertaken. Consequently, there was no formal mandate for UNCITRAL to co-ordinate others' activities and co-ordination is largely informal and conducted through the UNCITRAL Secretariat, as noted above. In addition, delegations to UNCITRAL and to two other closely-related agencies – HCCH and Unidroit – do not always take co-ordinated positions across the organisations.	

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2.8	Does the practice have a formal/normative basis within the organisation or is it conducted informally? Does this basis make the practice mandatory or voluntary?	Yes, see mandate (https://undocs.org/en/A/RES/2205(XXI)). The mandate provides an enabling provision, so it is neither mandatory nor voluntary per se. When UNCITRAL was established, the co-ordination function was the first aspect of its mandate. Nowadays, UNCITRAL's rule-formulating activity is considered to be its core business.	
2.9	At what frequency is the practice applied? i.e. is it conducted once or on an iterative basis?	Ongoing	
2.10	Is this practice applied systematically, (e.g. with respect to every normative instrument, according to specific criteria or on an ad hoc basis)?	Ad hoc. An annual report into co-ordination activities is available at https://uncitral.un.org/en/commission . The 2020 report is United Nations document <i>Coordination Activities A/CN.9/1018</i> , available at https://undocs.org/en/A/CN.9/1018 .	
2.11	Please provide specific details or examples to illustrate the practice (including supporting links and documents).	See previous row and for ad hoc endorsements of other organisations' texts, see https://uncitral.un.org/en/texts/endorsed .	
3	Design of the Practice	Answers	Comments and Intersections
3.1	Who designed the practice (e.g. Was it developed internally, in collaboration with other organisations, etc?)	Initially, United Nations Member States and international governmental and non-governmental organisations participating in sessions of the General Assembly when UNCITRAL was established (see https://uncitral.un.org/en/commission/archivaldocs); thereafter, the organisations identified above, and professional associations and chambers of commerce that use, for example, the UNCITRAL Arbitration Rules.	

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3.2	Which stakeholders were engaged with in the design of the practice?	Experts from the above, and judges, arbitrators and lawyers.	The integration of experts, judges, arbitrators, and lawyers into the design of UNCITRAL's co-ordination activities reflects an intersection between stakeholder engagement in international rulemaking (WG3) and co-ordination in international rulemaking (WG5), allowing different stakeholders to provide their views on where better coherence is necessary/relevant among IOs
3.3	How long did it take to design the practice?	Unknown	
3.4	What resources were needed to design the practice initially (i.e., staff, budget etc.)?	Unknown	
3.5	What challenges were encountered during the design of the practice and how were they overcome?	Lack of consensus on providing authority to co-ordinate – see section 2.1 and 2.7 above. Challenges addressed through the steps of the Secretariat to engage at the Secretariat level with other IOs as set out in section 2.5 above.	
3.6	Has the practice been tested before implementation (i.e. pilot phase)? If yes, please describe.	No	

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4	Implementation of the Practice		Comments and Intersections
4.1	Which units are responsible for implementing the practice within your IO?	The International Trade Law Division of the United Nations Office of Legal Affairs, which is the Secretariat of UNCITRAL.	
4.2	Are IO members involved in implementing the practice? If so, how?	No.	
4.3	Are external actors beyond the organisation or its membership involved in implementing the practice? If so, how?	Yes: UNCITRAL, the HCCH and Unidroit co-ordinate through an annual tripartite co-ordination meeting to discuss the current work of the three organisations, areas of mutual interest and joint activities.	
4.4	Which resources are needed to implement the practice (e.g., staff and budget)?	Subsumed within United Nations budget. The UNCITRAL Secretariat comprises approximately 25 staff, approximately half of which are involved in this practice to some extent.	
5	Outputs and Evaluation of the Practice	Answers	Comments and Intersections
5.1	Has the practice been evaluated or reviewed?	No	
5.2	If yes, who carried out the evaluation (please specify whether it was done internally or externally)	N/A	

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5.3	If yes, please describe the evaluation methodology? (e.g. were any quantitative or qualitative indicators/criteria used to measure/assess the outcomes of the practice?).	N/A	
5.4	If yes, what were the conclusions of the evaluation, and has the practice evolved subsequently? If possible, please attach related documents or provide a link.	N/A	
6	Additional comments and information	Answers	Comments and Intersections
6.1	Is there any more information or documentation that would be valuable to share in relation to the practice (e.g. links, reports, meeting minutes, supporting documents)?	<p>See United Nations document <i>Coordination Activities</i> A/CN.9/1018, available at https://undocs.org/en/A/CN.9/1018.</p> <p>The publication of <i>Coordination Activities</i> in 2020 sets out the various types of co-ordination adopted by UNCITRAL, outlines the actors with which it co-operates, and provides a mapping of the progress of its co-ordination arrangements to date. It builds on a detailed stock-taking of UNCITRAL's co-operative endeavours undertaken in 1993 – entitled the <i>Coordination of Work</i> (A/CN.9/380) report.</p>	
	Sources		