# Introduction

In August 2016, the International Law Commission adopted, on first reading, a complete set of sixteen draft conclusions on the topic “Identification of customary international law” ([A/71/10, Chapter V, attached](http://undocs.org/A/71/10)). In connection with this topic, the Commission requested the United Nations Secretariat to prepare a memorandum on ways and means for making the evidence of customary international law more readily available, which will survey the present state of the evidence of customary international law and make suggestions for its improvement.

The Secretariat has since sent questionnaires to States, international organizations and other entities. The questionnaires aim to survey the publicly available sources of evidence relevant for the identification of customary international law. This includes, in particular, sources of information regarding the practice of States and international organizations. Copies of the questionnaires sent to States and organizations are attached here below (sections V and VI).

With the present communication, the Secretariat is additionally seeking the cooperation of learned societies, specialised libraries, and research centres in international law. In order to be taken into account in the production of the memorandum, any information should be submitted electronically to Mr. David Nanopoulos at nanopoulosd@un.org and Ms. Judith Maclang‑Violago at maclang@un.org before **1 July 2017**. All contributions will be duly acknowledged in the memorandum prepared by the Secretariat for the seventieth session of the International Law Commission.

# Information sought

The memorandum aims to collect bibliographic information as to where to find evidence of the constituent elements of customary international law. The focus is not the content of the rules of customary international law, but the available sources of information as to “general practice” and “acceptance as law (*opinio* *juris*)”.

First, the Secretariat seeks information as to whether any similar **surveys of practice relating to customary international law** have already been conducted. Similar research efforts may have led to published studies in the past, and the Secretariat would be most grateful for information on the resources which are available to the public in that regard. Second, the Secretariat would be grateful for the direct contribution of interested libraries, learned societies, and research centres in international law to the survey by providing **information** on the available evidence of customary international law. The focus of each learned society and research centre should be information contained in publications or other materials available in their region and/or language.

In this regard, the Secretariat has prepared a model bibliographic report, included below, which may be replicated and used as a means for collecting information to be sent to the Secretariat. It is also possible to send any relevant information in different formats: any information equivalent to that contained in the model bibliographic form or in the questionnaires attached would be gratefully received.

The Codification Division can be contacted at the email addresses above and is at the disposal of libraries, learned societies, and research centres in international law for any further information or assistance which may be required.

# Contact information

**Responding entity**

**Focal point (name and function)**

**Phone number and email address**

**Office address**

# Model bibliographic form

**Information relating to the practice of:**

*(Please specify to which State, region or international organization the information contained in the publication, database or website relates to)*

**Author or entity publishing the information:**

**Title of the publication, database or website:**

**Publisher:**

**Year(s) of publication:**

**Type of materials:**

Book [ ]  Periodical/series [ ]  Online resources [ ]  Audio-visual [ ]  Other materials [ ]

Forthcoming publication [ ]  Not in the public domain [ ]

**Available online?** Yes, open [ ]  Yes, available by subscription only [ ]  No [ ]

**URL of website or database:**

**Languages in which the information is available:**

**Type of information contained in the publication, database or website:**

State archives [ ]

Archives of an international organization [ ]

Digest of State practice [ ]

Periodical report on the activities of international organizations [ ]

Diplomatic acts and correspondence [ ]

Correspondence addressed to or from international organizations [ ]

Decisions, resolutions and official statements adopted by international organizations [ ]

Regulations, directives and other legislative or administrative acts by international organizations [ ]

Summary or verbatim records of meetings of international organizations [ ]

Acts related to negotiations [ ]

Resolutions adopted by intergovernmental conferences [ ]

Treaties and other international agreements [ ]

Conduct in connection with treaties, including signature and ratification [ ]

Executive conduct [ ]

Executive orders, decrees and other measures [ ]

State practice on the ground, including law enforcement, seizure of property, as well as battlefield and military activity [ ]

Official statements of States [ ]

Official materials published in the name of a State (military manuals, official maps, etc.) [ ]

Opinions of Government legal advisers [ ]

Legal opinions of counsel of international organizations [ ]

Claims or pleadings of States:

 before national courts and tribunals [ ]

 before sub-regional, regional or international courts and tribunals [ ]

Legislative acts of the State (such as laws, regulations, legislative decrees) [ ]

Orders, judgments or other decisions of national courts [ ]

Academic writing in international law [ ]

Audio-visual resources on international law [ ]

Decisions or resolutions of treaty-monitoring bodies [ ]

Orders, judgments or other decisions of international courts and tribunals, including arbitral tribunals [ ]

Orders, judgments or other decisions of administrative review bodies of international organizations [ ]

Other practice of States [ ]

Other practice of international organizations [ ]

**Specific subject matter(s) of the information contained in the publication, database or website:**

*Either* international law in general (no specific subject matter) [ ]

*Or* One or more of the following specific subject areas (tick all that apply):

Domestic implementation of international law [ ]

Law of treaties [ ]

Statehood [ ]

International organizations [ ]

Other subjects of int. law [ ]

State succession [ ]

Immunities of States [ ]

Immunities of International organizations [ ]

Exercise of jurisdiction [ ]

Use of force [ ]

International responsibility for wrongful acts [ ]

Diplomatic protection [ ]

Settlement of international disputes [ ]

Territory [ ]

Watercourses [ ]

Law of the sea and maritime law [ ]

Airspace [ ]

Polar regions [ ]

Outer space [ ]

Nationality [ ]

Diplomatic and consular law [ ]

Migration and refugee law, including statelessness [ ]

International human rights law [ ]

International and transnational criminal law [ ]

Law of armed conflict [ ]

Trade [ ]

Investment [ ]

Intellectual property law [ ]

Transport [ ]

Communication [ ]

Environment [ ]

Energy and natural resources [ ]

Labour [ ]

Public health and social matters [ ]

Cultural relations [ ]

Cyberspace [ ]

Comparative and uniform law [ ]

Mutual assistance and judicial cooperation in civil matters [ ]

Another specific subject area (please specify):

**Any additional information:**

# Questionnaire sent to States

***(Included here for information purposes only)***

***Digests and State archives***

Does your Government publish a digest of its State practice relevant to international law?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how often?

What is the name of the publication and how can it be accessed (please include ISBN, ISSN and/or URL)?

Is your Government aware of other entities that publish such a digest of its practice, for example private publishers, academic institutions or other unofficial bodies?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, who are these entities?

How are these materials accessible (please include title(s), ISBN, ISSN and/or URL)?

Are the State archives open to the public?

Yes [ ]  No [ ]  Not applicable [ ]

Is there an access to information policy or procedure in place?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can such policy be viewed?

***Diplomatic acts and correspondence***

Does your Government publish information concerning its diplomatic acts and correspondence?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Is your Government aware of other entities that publish such information, for example private publishers, academic institutions or other unofficial bodies?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, who are these entities?

How are these materials accessible (please include title(s), ISBN, ISSN and/or URL)?

***International organizations and intergovernmental conferences***

Does your Government publish information on its conduct in connection with resolutions adopted by a regional or international organization or at an intergovernmental conference?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Is your Government aware of other entities that publish such information?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, who are these entities?

How are these materials accessible (please include title(s), ISBN, ISSN and/or URL)?

Does your Government publish information concerning decisions, regulations, directives or other legislative or administrative acts issued by regional or international organizations of which your State is a member?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Is your Government aware of other entities that publish such information?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, who are these entities?

How are these materials accessible (please include title(s), ISBN, ISSN and/or URL)?

***Treaties***

Does your Government publish information on its conduct in connection with treaties?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Is your Government aware of other entities that publish such information?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, who are these entities?

How are these materials accessible (please include title(s), ISBN, ISSN and/or URL)?

Does your Government publish information concerning treaties of which it is the depositary?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Is your Government aware of other entities that publish such information?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, who are these entities?

How are these materials accessible (please include title(s), ISBN, ISSN and/or URL)?

***Executive conduct***

*For the purposes of this questionnaire, the term “executive conduct” includes:*

* + 1. *executive orders, decrees and other measures;*
		2. *official statements on the international plane;*
		3. *official statements before a domestic legislative body, such as a parliament or assembly;*
		4. *official statements to the media;*
		5. *official publications, i.e. documents published in the name of a State, such as military manuals and official maps;*
		6. *claims or pleadings before national courts and tribunals;*
		7. *claims or pleadings before sub-regional, regional or international courts and tribunals*
		8. *opinions of Government legal advisers; and*
		9. *other executive acts.*

Does your Government publish official information concerning its executive conduct?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Does your Government separately publish information regarding its executive conduct specifically relating to issues of international law?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Is your Government aware of other entities that publish information concerning its executive conduct?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, who are these entities?

How are these materials accessible (please include title(s), ISBN, ISSN and/or URL)?

Does your Government publish information regarding any operational State practice “on the ground”, including law enforcement and seizure of property, as well as battlefield or other military activity?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Is your Government aware of other entities that publish such information?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, who are these entities?

How are these materials accessible (please include title(s), ISBN, ISSN and/or URL)?

***Legislative conduct***

Does your State publish information concerning its legislative acts, such as laws, regulations and legislative decrees?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Does your State have a separate publication concerning its legislative acts specifically relating to international law?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Is your Government aware of other entities that publish information concerning the legislative acts of the State?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, who are these entities?

How are these materials accessible (please include title(s), ISBN, ISSN and/or URL)?

Does your State publish information relating to meetings of its legislative body or bodies, such as parliamentary records, transcripts, reports or archives?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Does your State separately publish information relating to meetings of its legislative body or bodies, such as parliamentary records, transcripts, reports or archives, concerning issues of international law in particular?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Is your Government aware of other entities that publish information relating to meetings of its legislative bodies?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, who are these entities?

How are these materials accessible (please include title(s), ISBN, ISSN and/or URL)?

***Judicial acts***

Does your State publish the orders, judgments or other decisions of its national courts?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can they be accessed (please include title(s), ISBN, ISSN and/or URL)?

Does your State have a separate publication for orders, judgments or other decisions of its national courts relating specifically to international law?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Is your Government aware of other entities that publish information regarding orders, judgments or other decisions of its national courts?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, who are these entities?

How are these materials accessible (please include title(s), ISBN, ISSN and/or URL)?

Does your State publish information regarding orders, judgments or other decisions of international, regional or sub-regional courts and tribunals?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Is your Government aware of other entities that publish such information?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, who are these entities?

How are these materials accessible (please include title(s), ISBN, ISSN and/or URL)?

***Teachings***

Is your Government aware of any law journals or other academic publications on international law published in your country, which reports on the practice of your State?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, please provide a list of these journals (please include title(s), ISSN and/or URL)

Is your Government aware of any audio-visual resources on international law available in your country?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, which are these?

How are these materials accessible (please include title(s), ISBN, ISSN and/or URL)?

***United Nations publications***

Does your Government contribute to the *United Nations Juridical Yearbook*?

Yes [ ]  No [ ]  Not applicable [ ]

Does your Government contribute to the *United Nations Legislative Series*?

Yes [ ]  No [ ]  Not applicable [ ]

Does your Government contribute to other United Nations publications of practice in the field of international law, such as on the law of the sea?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, which are these?

***Any other information and future plans***

Does your Government have any other information concerning available sources of your State’s practice?

Does your Government plan to make available in the future any of the information mentioned in the questions above that is not currently available?

# Questionnaire sent to organizations and entities

***(Included here for information only)***

## *Reporting*

Which areas of international law are particularly relevant to the mandate and activity of your organization?

Does your organization publish the decisions, resolutions and official statements adopted by the organization or its organs?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, where could these be accessed (please include ISBN, ISSN and/or URL)?

Does your organization separately publish the decisions, resolutions and official statements adopted by the organization or its organs, which concern legal issues?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how are these accessible (please include title(s), ISBN, ISSN and/or URL)?

Does your organization publish the treaties, other agreements, or other binding legal acts and instruments adopted under its auspices?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how are these accessible (please include title(s), ISBN, ISSN and/or URL)?

Does your organization publish any official annual or periodical report on its activities in general?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how are such reports accessible (please include title(s), ISBN, ISSN and/or URL)?

Does your organization separately publish any official annual or periodical report on its activities specifically dealing with legal issues?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how are such reports accessible (please include title(s), ISBN, ISSN and/or URL)?

Does your organization publish annual or periodical reports on the legal opinions rendered by counsel of the organization, if any?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how are such reports accessible (please include title(s), ISBN, ISSN and/or URL)?

Does your organization contribute to collections of legal opinions published by third parties, such as the *United Nations Juridical Yearbook*?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, which are these (please include title(s), ISBN, ISSN and/or URL)?

Does your organization regularly collaborate with any academic publication?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, which one(s) (please include title(s), ISBN, ISSN and/or URL)?

## *Evidence of State practice and acceptance as law (*opinio juris*)*

Does your organization publish the verbatim or summary records of meetings in which representatives of States participate?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can they be accessed (please include title(s), ISBN, ISSN and/or URL)?

Does your organization publish the video or audio recording of such meetings?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can they be accessed (please include title(s), ISBN, ISSN and/or URL)?

Does your organization publish diplomatic correspondence addressed to it from States or the correspondence it circulates on behalf of States?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Does your organization collect information concerning diplomatic acts and correspondence of States relating to its mandate and activity?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, does it publish such information?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Does your organization collect information concerning the conduct of States (including legislative and administrative) in relation to a particular treaty, or in relation to particular decisions or resolutions adopted under the provisions of a treaty, including the constitutive instrument of the organization?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, does it publish such information?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Does your organization collect information concerning decisions of national courts in relation to its mandate and activity?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, does it publish such information?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Does your organization collect information concerning decisions of international courts and tribunals which are relevant to its mandate and activity?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, does it publish such information?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Does your organization collect information concerning public statements made by States in relation to the mandate and activity of the organization?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, does it publish such information?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Does your organization collect information concerning official publications of States in relation to the mandate and activity of the organization?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, does it further disseminate such information?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

Does your organization collect information concerning government legal opinions in relation to its mandate and activity?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, does it publish such information?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can it be accessed (please include title(s), ISBN, ISSN and/or URL)?

## *Practice of your organization*

Does your organization publish the official correspondence it sends to States?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can such correspondence be accessed (please include title(s), ISBN, ISSN and/or URL)?

Does your organization publish its official correspondence with other international organizations?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can such correspondence be accessed (please include title(s), ISBN, ISSN and/or URL)?

Does your organization publish the minutes of internal meetings of its Secretariat?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can these be accessed (please include title(s), ISBN, ISSN and/or URL)?

Does your organization publish all the decisions and internal instructions adopted by its administrative bodies?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how can these be accessed (please include title(s), ISBN, ISSN and/or URL)?

Do mechanisms exist for the legal review of decisions and internal instructions adopted by its administrative bodies (for instance, internal administrative tribunals dealing with employment-related disputes)?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, are their decisions published?

Yes [ ]  No [ ]  Not applicable [ ]

If yes, how are they accessible (please include title(s), ISBN, ISSN and/or URL)?

How can press releases of the organization be accessed (please include title(s), ISBN, ISSN and/or URL)?

Are the organization’s archives open to the public? Yes [ ]  No [ ]  Not applicable [ ]

Is there an access to information policy or procedure in place? Yes [ ]  No [ ]  Not applicable [ ]
If yes, how can such policy be viewed?

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