# 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](mailto:nanopoulosd@un.org) and Ms. Judith Maclang‑Violago at [maclang@un.org](mailto: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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