

# INTRODUCTION TO THE INTERNATIONAL LAW COMMISSION

Spring 2025

# METHODS OF WORK

## PROCESS OF CONSIDERATION

**Step 1:**  
The Commission adds a topic to its long-term programme of work.



**Step 2:**  
The Commission decides to place the topic on the agenda of its next session.  
  
*Note: the Commission may have a subcommittee or working group conduct preliminary work on the topic before adding it to the agenda.*



**Step 3:**  
Substantive consideration, conducted in 3 stages:  
  
(1) Preliminary work  
  
(2) First reading  
  
(3) Second reading

- **Preliminary work:** organize work and gather relevant materials and precedent.
- **Usually involves:**
  - Appointing the Special Rapporteur.
  - Formulating a plan of work (see **Statute, Article 19(1)**).
  - Where necessary or desirable, requesting:
    - information on relevant practice from Governments (see **Statute, Article 19(2)**) and/or international organizations.
    - research projects, studies, surveys and compilations from the Secretariat.

## PRELIMINARY STAGE



- **Stage 2:** first reading of the draft articles submitted by the Special Rapporteur.
- **Usually involves:**
  - Considering the Special Rapporteur's reports<sup>1</sup> in plenary, and the proposed draft provisions in plenary and Drafting Committee.
  - Developing draft provisions with commentary setting forth precedents, any divergences of views expressed in the Commission, and alternative solutions considered.
  - Approving the provisional draft provisions in Drafting Committee and the draft provisions with commentaries afterwards in the plenary.
  - Issuing the provisional draft with commentaries as a Commission document and submitting it to the General Assembly and to Governments for their written observations.
    - Governments are generally given one year or more to study the draft provisions adopted on first reading and present their written observations before second reading begins.

<sup>1</sup> At the Commission's request, or on their own initiative, Special Rapporteurs' initial presentation may instead be of a general or exploratory character, in the form of a working paper or preliminary report.

- **Stage 3:** second reading of the draft provisions provisionally adopted.

- **Usually involves:**

- The Special Rapporteur studying the submitted replies received from Governments, international organizations or other entities, and any comments made in the Sixth Committee debates.
- The Special Rapporteur submitting a further report to the Commission recommending any appropriate changes to the provisional draft.
- The Commission considering and approving the revised draft in the Drafting Committee, in light of the written and oral observations of Governments.
- The Commission adopting, in plenary, the final draft with commentaries and a recommendation regarding further action.
- The Special Rapporteur amending the commentaries to explain the final version of the draft provisions, including the solutions adopted with respect to any controversial issues and any updates necessary based on the most recent precedents.





## END OF THE COMMISSION'S WORK

- The Commission's work on a topic is completed when it presents the General Assembly with a final product on that topic, which is usually accompanied with a recommendation on further action.
- **Statute, Article 23(1):** The Commission may recommend the General Assembly:
  - Take no action, the report having already been published.
  - Take note of or adopt the report by resolution.
  - Recommend the draft to Members with a view to the conclusion of a convention.
  - Convoke a conference to conclude a convention.
- **In practice:** the Commission has recommended variations of these four options depending on the nature of the adopted draft provisions.
- **Statute, Article 23(2):** the General Assembly may refer drafts back to the Commission for reconsideration or redrafting.
  - **Occurs rarely, but has happened** (e.g., the draft articles on arbitral procedure; the draft articles on the jurisdictional immunities of States and their property).

## REVIEW OF WORKING METHODS

- Periodically, the Commission reviews its methods of work for areas of improvement, at the request of the General Assembly or on its own initiative, in light of comments and suggestions made in the Sixth Committee or in the Commission itself.
- The Commission has conducted reviews—some of which have resulted in changes to its methods of work—in 1958, 1968, 1975, 1978 and 1979, 1987, 1992, 1994 and 1995, 1996, 2011, 2018, and through the establishment of a Working Group on methods of work of the Commission for the 2017 to 2022 term.
- In the 2023 to 2027 term, the Commission reconstituted the Working Group on methods of work to investigate ways to improve the Commission's work.



## DISCUSSION QUESTIONS

- (1) Is there a benefit to a multi-stage process rather than a single, continuous process?**
  
- (2) Do written observations from governments function more as legal input or political signaling?**
  
- (4) What does the frequency of reviews of working methods suggest about the Commission's self-assessment?**