

Statement by
Sonali Samarasinghe, Minister Counsellor
Permanent Mission of Sri Lanka to the United Nations
Before the Sixth Committee of the 71st Session of the UNGA
Agenda Item 78: Report of the International Law Commission on the work of its
Sixty-Eighth session
(Cluster II – Chapters VII, VIII and IX)
01 November 2016
New York

Check against delivery

Mr. Chairperson

At the outset I wish to extend our warm appreciation to the Chairperson of the Commission Mr. Pedro Commisario Afonso for his presentation of the second Cluster of topics in the Commission Report.

Our intervention today is limited to Chapter VIII “Protection of the Atmosphere.” This is an extremely complex topic and an important one for the international community as a whole, and indeed we are pleased to note that the topic is moving forward in the right direction with 5 draft guidelines and a preambular paragraph being provisionally adopted by the Commission this year.

Let me begin my comments on the topic by expressing our deep appreciation to Mr. Shinya Murase, Special Rapporteur on the Protection of the Atmosphere for his dedicated work and outstanding contribution to this topic and for his Third Report A/CN.4/692.

The Paris Agreement of 2015 no doubt enhances the efforts of the ILC in elaborating a comprehensive set of guidelines with regard to the challenges faced in the protection of the atmosphere.

It may be noted that the Paris Agreement declared that Climate Change is a “common concern of humankind” and in our view this notion should be included in the present work of the Commission.

This topic presents issues and complexities of both science and law. The delegation of Sri Lanka firmly believes that this topic cannot properly be discussed or developed in isolation from the scientific community. We therefore wish to compliment the Special Rapporteur on his initiative to organize dialogues with the world’s foremost atmospheric scientists.

Such interactions no doubt will increase ILC Members’ familiarity with the relevant scientific concepts and encourage broader dialogue between expert scientific and legal bodies in the international community.

We are therefore pleased to note that the Members of the Commission found the interactions useful and look forward to more such dialogues as work on this topic continues to develop.

Having read the summary of the informal dialogue with scientists held in May 2016 on the ILC website, our delegation notes with grave concern that every year over 7 million people die prematurely due to air pollution. Therefore we are of the view that the subject warrants consideration by the ILC.

Draft guideline 3 on the Obligation of States to protect the atmosphere by exercising due diligence in taking appropriate measures is a core provision of this project, and we congratulate the Commission for adopting this guideline this year. Sri Lanka takes note of the divergent views as to the nature of this obligation, especially as to whether it should be considered as an “obligation *erga omnes*” in the sense of Article 48 of the Articles on State Responsibility.

Today, atmosphere is utilized in a variety of ways, but at the same time, atmosphere is a

limited natural resource, with limited assimilation capacity. Therefore, Sri Lanka supports **draft guideline 5** on sustainable utilization of the atmosphere and **draft guideline 6** on equitable and reasonable utilization of the atmosphere.

Mr. Chairperson

Draft guideline 7 on “Intentional large-scale modification of the atmosphere” or more commonly called “geo-engineering” is a very important subject in the context of the present topic. Geo-engineering is now widely practiced, and it will be practiced even more frequently in the future. Geo-engineering activities may have a great potential for preventing adverse effects of disasters and hazards, but needs to be approached with thoughtfulness and prudence as well.

Finally on the 4th **preambular paragraph** provisionally adopted this year my delegation would like to suggest that this preambular paragraph on the special needs and situation of developing countries should be considerably strengthened. Article 2 of the 2015 Paris Agreement refers to “common but differentiated responsibilities (CBDR),” which should be repeated in this ILC project. The need for special consideration for developing countries has indeed been endorsed by a number of international instruments including the UN Convention on the Law of the Sea, and the 1992 United Nations Framework Convention on Climate Change (UNFCCC).

Thank you Mr. Chairperson