



Statement by

**The Delegation of Indonesia
before the Sixth Committee of the General Assembly
on
Agenda item 82:
Report of the International Law Commission (Cluster I)**

XX October 2021

Mdm. Chairperson,

At the outset, my delegation wishes to thank the Chair of the International Law Commission, Ambassador Mahmoud D. Hmoud, for his lucid introduction for our discussion of the Commission's report of the Seventy-second session.

Indonesia commends the Commission's work during its 72nd session and the progress achieved on many topics. We further commend the special rapporteurs for their valuable contributions to the work of the Commission.

My delegation fully appreciates the role of the Commission in promoting the progressive development and codification of international law.

We are of the view that the topics under the agenda of the Commission are worthy of thorough and continuous consideration.

Mdm. Chairperson,

On the work of protection of the atmosphere, we thank the Special Rapporteur, Mr. Shinya Murase, for his outstanding work as exemplified in the draft guidelines on this topic.

My delegation takes note of the provisions of the draft guidelines which were adopted at the seventy-second session.

We wish to emphasize the importance of several guidelines contained in the draft, including guidelines 3, 4 and 8 concerning the obligation to protect the atmosphere, the obligation to undertake environmental impact assessment, and international cooperation.

My delegation is of the view that these obligations are inseparable and mutually reinforcing, and comprise the essential pillars of atmospheric protection.

Obligation to protect, in particular, entails the obligation to prevent and to carry out enforcement measures, taking into account, cooperation with other states for its effective performance thereof.

As a matter of law, enforcing these obligations comes with prescription of relevant domestic legislation, criminalization of acts that cause atmospheric pollution, international cooperation, and importantly, the effective enforcement of criminal, administrative or civil measures against individual and legal persons.

With respect to the environmental impact assessment, we concur with the approach of the Commission as stated in the Commentary: that the obligation of conducting environmental impact assessment needs to take into account a variety of economic actors.

We also stress the importance of the qualifier phrase, of “which are likely to cause significant adverse impact” in order to provide certain threshold in this regard. As specified in the Commission’s commentary, the impact of the potential harm must be “significant” for both “atmospheric pollution” and “atmospheric degradation”.

Mdm. Chairperson,

Indonesia believes that international cooperation in the protection of the atmosphere is imperative, including in the area of law enforcement. In this regard, we stress that the relevant countries or jurisdictions should exercise due diligence on their own duty and by virtue of international law duty.

This means that good will and good faith among countries is of paramount importance in strengthening and ensuring effective cooperation in legal matters relating to protection of the atmosphere.

Mdm. Chairperson,

Moving on to the **Provisional Application of Treaties**, my delegation would like to express our appreciation to the Special Rapporteur, Mr. Juan Manuel Gomes Robledo, for his report.

We take note of the text of “Guide to Provisional Application of Treaties” and the commentaries thereto, adopted at the seventy-second session of the Commission.

Even though Indonesia is not a party, we are of the view that the 1969 Vienna Convention on the Law of Treaties is certainly the basis on which the Commission should develop a mechanism or a set of guidelines that would provide States with guidance relating to the provisional application of treaties.

The exercise/practice of provisional application of treaties, in this respect, may provide a solution to address difficulties in meeting the conditions of the entry into force of the treaty, however it should never undermine the ultimate objective of the treaty which may include the establishment of global/multilateral standard.

My delegation therefore would like to reiterate that the aim of this guidelines should rather be to provide a mechanism or guidelines for the provisional application of treaties, that will serve as an option to States that might have the intention to provisionally apply a treaty to serve their immediate purpose/interest, pending its entry into force. However, it is the right of States concerned to decide on what is best for them concerning the provisional application of treaties.

We are further of the view that it would be essential to have information from States and international organizations regarding the practice and regulation of provisional application of treaties through their national/domestic legislations or internal rules as for the international organizations.

To conclude, we are delighted to further study and involves in the deliberation on this pertinent topic within the relevant forums, including the Sixth Committee.

I thank you **Mdm. Chairperson**.

Words: 785