

STATEMENT BY Mr. Tomoyuki Hanami  
REPRESENTATIVE OF JAPAN  
AT THE MEETING OF THE SIXTH COMMITTEE  
ON THE REPORT OF THE INTERNATIONAL LAW COMMISSION  
ON THE WORK OF ITS SIXTY-SIXTH SESSION (PART TWO)

The obligation to extradite or prosecute (*aut dedere aut judicare*)

Thank you, Mr. Chairman,

I would like to start from the topic of “The obligation to extradite or prosecute (*aut dedere aut judicare*).”

Mr. Chairman,

Now, I am turning to the topic of "Subsequent agreements and subsequent practice in relation to the interpretation of treaties." The delegation of Japan would like to commend the Special Rapporteur, Mr. Georg Nolte for his extensive work as drawing up the second report and draft conclusions therein. We duly note the draft conclusions provisionally adopted by the Commission; namely draft conclusion

matter.

Lastly, the Japanese delegation would like to stress that any modification to the rule stipulated in treaties must be made by clear expression of intention of states, and not solely by unclear subsequent agreement and subsequent practice. Primary rule in this issue is stipulated in article 39 of the VCLT. We, therefore, positively consider the draft conclusion 7, paragraph 3.

The delegation of Japan hopes that further discussion will take place in the next session.

## Protection of the atmosphere

Mr. Chairman,

Now, I would like to touch upon the topic of "Protection of the atmosphere". First of all, the delegation of Japan would like to congratulate the Special Rapporteur, Mr. Shinya Murase, on the commencement of this topic in the sixty-sixth session of the Commission. Overall, his first report is well balanced by taking moderate approach in its deliberation and analysis. Particularly, the report includes useful information on historical development of international efforts in the field of atmospheric environment protection. In this context, the delegation of Japan welcomes that, as the ILC report describes, members of the Commission shared the view that the protection of the atmosphere is extremely important for humankind. This widely shared recognition must be the very basis of the discussion of this topic.

At the same time, we are aware that there were certain points that members of the Commission took different positions or perspectives. The particular case was about the understanding adopted in the sixty-fifth session. Some members argued that the first report was touching upon matters such as climate change and ozone depletion, which is inconsistent with the understanding prescribing that the "Work on the topic will proceed in a manner

so as not to interfere with relevant political negotiation". The Special Rapporteur, on the other hand, reaffirms that the report was prepared in full compliance with the understanding and assures that he had the intention neither to interfere with relevant political negotiations nor to deal with specific polluting substances. The delegation of Japan understands that the first report was

of humankind is reasonable and a good start for further deliberation. The concept of “a common concern of humankind” appears in several legal and non-

