

Mr. Chairman,


I would like to present China's views on some of the topics under the consideration of the International Law Commission.

With respect to “ **Protection of the atmosphere** ” , the Chinese delegation thanks the Commission and Mr. Shinya Murase, the Special

session draft guideline 9 “ **Interrelationship among relevant rules** ” , the purpose of which is to ensure the harmonization and systemic integration of the rules of international law relating to the protection of the atmosphere with other relevant rules of international law, including, inter alia, those of international trade and investment law, the law of the sea and international human rights law, in accordance with the rules set forth in the *Vienna Convention on the Law of Treaties* regarding the application and interpretation of treaties. We are of the view, however, that in order for this draft guideline to apply, there would need to be existing rules of

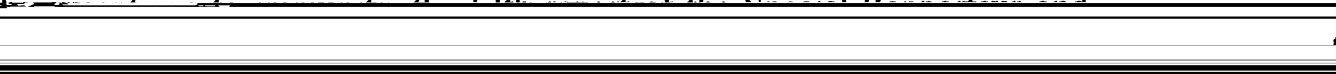
draft article is very problematic, and we wish to make the following comments.

First of all, the hasty adoption of the draft article without thorough discussion seems inappropriate. We have noted that before the deliberation on this issue could run its course, the Commission rushed to a vote and adopted the draft article with almost one third of the members voting against it. We suggest that the Commission proceed with caution and moderation and



continue with in-depth exchange of views on the issue of exceptions to seek the broadest possible consensus. The Commission should avoid tabling a draft article on which there exists extensive controversy since it may undermine the authority of any potential outcome in this regard.

Secondly, the six exceptions to immunity provided for in this draft article are not grounded in general international practice. When arguing for



In light of the above, China does not believe that the provisions of draft article 7 qualify as codification or progressive development of customary international law. The unfair denial of immunity of State officials will seriously undermine the principle of sovereign equality and very likely

become a tool for politically motivated litigations, which will result in grave damage to the stability of international relations. The Commission must

our concern, the Special Rapporteur explains in paragraph 18 of his latest

elements”, as opposed to the “constituent elements (or criteria) of norms of *jus cogens*” contained in article 53 of the Vienna Convention and argues

implement in practice. Since the same vague quantitative criterion can also