



**PERMANENT MISSION OF SINGAPORE
TO THE UNITED NATIONS**

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**STATEMENT BY MRS. NATALIE Y. MORRIS-SHARMA,
COUNSELLOR (LEGAL), PERMANENT MISSION OF SINGAPORE TO
THE UNITED NATIONS, ON AGENDA ITEM 78 ON THE REPORT OF
THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS
SIXTY-EIGHTH SESSION (CHAPTERS VII, VIII & IX OF A/71/10),
SIXTH COMMITTEE,
28 OCTOBER 2016**

Mr. Chairman,

1. My delegation thanks the International Law Commission for its report on the topics “Crimes against humanity”, “Protection of the atmosphere”, and “*Jus cogens*”. We continue to follow all three topics with great interest. We would like to offer some comments on the second topic.

2. On the topic of “Protection of the atmosphere”, my delegation thanks the Special Rapporteur for his well-researched third report. We note the Commission’s consideration of the third report of the Special Rapporteur, and the provisional adoption of draft guidelines 3, 4, 5, 6, and 7, a fourth preambular paragraph, as well as their accompanying commentaries.

3. My delegation regards this topic to be of utmost practical significance. This is especially since transboundary haze pollution has posed a real and significant problem to the health and economy of Singapore, and other countries in the region, over the years.

4. Earlier this year, in response to the Commission's request to States to provide information on domestic legislation and judicial decisions of domestic courts relevant to its work in relation to this topic, Singapore submitted for consideration by the Commission, information on its recently enacted Transboundary Haze Pollution Act 2014, as an instance of domestic legislation relevant to the Commission's work on this topic. Singapore also shared a copy of the text of the Act with the Commission. In a nutshell, the Transboundary Haze Pollution Act seeks to deter errant companies by holding them accountable for the environmental and health impacts of their actions.

5. Singapore is gratified to note that our domestic legislation has been considered in the third report of the Special Rapporteur. We look forward to further dialogue with the Commission in its work on this topic.

6. My delegation is supportive of draft guideline 3, the "obligation to protect the atmosphere"; in particular the explanation in the commentary to draft guideline 3 that it is central to the present draft guidelines. We agree with the Special Rapporteur's view that the maxim of *sic utere tuo ut alienum non laedas* (that is, "use your own property so as not to injure that of another") is well-

established and accepted in inter-State relations as the principle that the sovereign right of a State to use its territory is not without limits, but that a State has an obligation not to cause injury to, or within, the territory of another State.

7. My delegation also notes with great interest the explanation in the commentary to draft guideline 3 that States are required to exercise due diligence to “ensure” that activities within their jurisdiction or control caused by individuals and private industries, which are not normally attributable to a State, do not cause significant adverse effects. Indeed, we think there is merit in the explanation in the commentary that States are required to take appropriate measures to control public and private conduct, especially if such conduct results in adverse effects to the atmosphere. Singapore welcomes the reference to “States” for the purposes of the draft guideline in order to denote both the possibility of States acting “individually” and “jointly” as appropriate. This would buttress the obligation on the part of States to cooperate in draft guideline 8. As previously highlighted, my delegation notes a common thread of cooperation at least on the basis of sovereign equality and good faith.

8. In respect of draft guideline 4 on environmental impact assessments, my delegation notes that this guideline flows from the State’s obligation in draft guideline 3 to exercise due diligence in taking appropriate measures to prevent atmospheric pollution and atmospheric degradation. My delegation thinks there is merit in not dealing with the specific procedural aspects of an environmental impact assessment in the draft guideline itself in order to give flexibility and latitude to countries.

9. Concerning future work, we support the Special Rapporteur's indication that the Commission could deal with the question of the interrelationship of the law of the atmosphere with other fields of international law (such as the law of the sea, international trade and investment law and international human rights law) in 2017 and think that it is a useful exercise, provided that this remains within the parameters of the 2013 understanding. In respect of the Special Rapporteur's proposal to deal with issues of implementation, compliance and dispute settlement relevant to the protection of the atmosphere in 2018, my delegation's views are that this direction of study may be inconsistent with the 2013 understanding.

10. Thank you, Mr. Chairman.

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