

**Statement by Hiroko Muraki Gottlieb, Senior Counsellor
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to the United Nations**

**Agenda Item 81: Report of the International Law Commission on the work of its sixty-
ninth session, Cluster 2 (Chapter VI: Protection of the Atmosphere)
at the Sixth Committee of the 72nd Session of the United Nations General Assembly**

New York, Tuesday, 31 October 2017

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Mr. Chairman,

Thank you for giving International Chamber of Commerce the floor. ICC would like to take this opportunity to thank the International Law Commission for its on-going tireless work. We also truly appreciate the fourth report and a briefing on the topic of protection of the atmosphere provided by the Special Rapporteur, Mr. Shinya Murase. The fourth report considers many important issues, which will require further careful assessment by ICC. In this statement, ICC will focus on three points on the topic of protection of the atmosphere.

Mr. Chairman,

Open international trade has helped lift more than a billion people out of poverty, and reduced inequalities across countries. As such, ICC welcomes the statement in the fourth report that “[f]ree trade and foreign investment are prerequisites for the welfare of humankind in the contemporary world.”

ICC also takes note of the statement in the fourth report that free trade and foreign investments “may come into conflict with the protection of the environment and the atmosphere.” In this regard, ICC would like to stress that the business community takes the challenges of climate change and its impacts on the ecosystems and humankind very seriously. ICC has vigorously championed the UNFCCC and we will continue to do so.

ICC also believes that sustainability and trade and investment can be complementary. Therefore, we are promoting the concept of sustainable trade, where the structure of the trade takes into account environmental, social and economic factors.

Mr. Chairman,

Businesses thrive in jurisdictions where there are stable operating environments that support the rule of law that are clear and coherent with an emphasis on prohibiting arbitrary, restrictive and/or discriminative State actions against business. Therefore, while reserving our position on whether the measures to protect the atmosphere from pollution and degradation are necessary specifically in the fields of international trade law and international investment law, ICC welcomes the language in draft guideline 10, which proposes that appropriate measures, if any, “shall not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade or foreign investment, respectively.”

Mr. Chairman,

As for the future work proposed by the Special Rapporteur, if adopted, ICC would welcome the opportunity to have a dialogue with the Commission on business practices on implementation, compliance and dispute settlement relevant to the protection of the atmosphere. A dialogue with the regulated community may add value to the work of the ILC on this topic so that the draft guidance, if any, would take into consideration various relevant and important factors, so that such guidance can contribute to the desired effect of enhancing sustainable development to meet the goals of Agenda 2030.

Thank you, Mr. Chairman