



**Statement by the Republic of Turkey
at the Sixth Committee
on the Report of the International Law Commission
25 October - 4 November 2021**

CLUSTER I

Madam Chair,

At the outset, we would like to thank the Chair, Ambassador Mahmoud Hmoud, for the presentation of the report of the International Law Commission.

We would also like to express our appreciation for the extraordinary efforts made to ensure the smooth conduct of the Commission during the Covid-19 pandemic.

Protection of the Atmosphere

Madam Chair,

With regard to the topic: "Protection of the Atmosphere", we would like to thank the Special Rapporteur Shinya Murase for his sixth report and congratulate the Commission for the completion of the draft guidelines.

As mentioned in the Special Rapporteur's report, we shared our hesitation regarding draft guidelines 4 and 11(2/b) in the past Sixth Committee sessions. Therefore, we would like to refer to our previous statements that have been delivered on this topic during previous sessions.

In addition, bearing in mind that there are many countries that are not party to the Vienna Convention on the Law of Treaties, including Turkey, it would be appropriate not to mention the Vienna Convention in the draft guideline 9.

On the other hand, we would like to emphasize that Turkey attaches great importance to the environmental issues, which are transboundary and multi-dimensional challenges of today.

Protection of the atmosphere constitutes one of these challenges.

Our atmosphere is composed of many gases, including ozone that absorbs a large part of the sun's harmful UV radiation.

Industrial activity and consumer products result in the emission of ozone depleting substances, particularly ones that contain chlorine and bromine that weaken the ozone layer.

In this context, Vienna Convention for the Protection of the Ozone Layer and Montreal Protocol, which aim to foster international cooperation in protecting the ozone layer, are important and universally ratified treaties.

As a part of her efforts to preserve the environment, Turkey is party to the mentioned Convention and Protocol.

As a last point on this topic, I would like to add that Turkey is committed to other international efforts in protecting the ozone layer.

Provisional Application of Treaties

Madam Chair,

Turning to the topic: “Provisional Application of Treaties”, we would like to thank Special Rapporteur Juan Manuel Gómez-Robledo for his sixth report and the Commission for the second reading of the draft guidelines.

As we have mentioned in our previous statements and in our written comments, in order for Turkey to be legally bound by any international agreement, such agreement has to be approved in accordance with the relevant domestic procedures.

In this regard, mere signing of the agreement does not suffice.

I also note that Turkey is not party to the Vienna Convention on the Law of Treaties (1969).

In view of the foregoing, Turkey maintains the view that treaties should be applied after their entry into force, as a rule, and that provisional application before entry into force should be regarded as an exception that would be applied at the discretion of States.

In this vein, regarding draft guideline 6, I refer to our previous statements in the past Sixth Committee sessions.

Although the wording of draft guideline 6 has changed, we believe the new wording is still establishing a “default rule”.

That way, while the treaties are usually silent on the matter, vesting the provisional application of a treaty with default binding force could turn the option into a rule in fact.

That situation could pose a threat to the exclusive power of the legislative authority to consent to international undertakings by removing the need for approval; it could also discourage the executive authority from initiating and working with the legislature to complete the ratification process.

Therefore, we expect that the Commission proceed with utmost caution on this matter.

We also maintain our view that, like Turkey, there are many other countries that are not party to the Vienna Convention on the Law of Treaties, and that it would be appropriate not to mention the Vienna Convention in draft guideline 2.

Finally, we welcome the decision of not including “Draft model clauses” which was proposed in 2019.

Other Decisions

Madam Chair,

Before I conclude our remarks, I would also like to point out that we welcome the decision of ILC to recommend the inclusion of the topic “*Subsidiary means for the determination of rules of international law*” in the long-term programme of work of the Commission.

We are looking forward to following the work of the Commission on this topic.

Thank you.