



**REPUBLIC OF POLAND**  
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**Statement by the Republic of Poland**  
**at the Sixth Committee**  
**on the Agenda Item 82:**  
**“Report of the International Law Commission on**  
**the work of its seventy-second session”**  
**CLUSTER I**

**New York, 26<sup>th</sup> October 2021**

*Madam Chair, Distinguished Delegates,*

At the outset, let me congratulate the Chairman of the International Law Commission (ILC), Mr. Mahmoud D. Hmoud, for his presentation of the Commission's Report from its seventy-second session. As this year's session was held in an exceptional hybrid format, we would like to express our appreciation to the session Bureau and the Secretariat for preparing this extraordinary meeting of the ILC.

The Commission's activities this year are significant for the other reasons as well. The ILC finished work on two different topics – the provisional application of treaties and protection of the atmosphere. In the first case, this involved preparing a Guide composed of 12 draft guidelines and a draft annex; in the second, a draft preamble and 12 draft guidelines. These results are an increasingly frequent trend in the recent work of the Commission: the preparation of instruments which from the beginning are considered to be non-binding, instead of draft articles, which can be further elaborated, by the engagement of interested states, into conventions. Poland considers such an approach to have merit in certain circumstances, since not all topics lend themselves to transposition into draft articles and subsequently into potential conventions. At the same time, this does not signify that such topics are of no interest to states. They certainly can be, and their comprehensive elaboration can have practical value.

Furthermore, completing work on two such different topics illustrates the complexity and diversity of issues, including branches of international law, which members of the Commission have tackled with a high level of expertise.

*Madam Chair, Distinguished Delegates,*

With respect to the topic of provisional application of treaties, please allow me to make some preliminary remarks. Poland welcomes the Secretariat's new practice of preparing a detailed document containing comments and observations received from Governments and international organizations. This practice should continue and if possible be applied to the Sixth Committee's annual discussions of the Commission's report. Such an approach would much better serve a genuine dialogue and exchange of views between states – through discussion in the Sixth Committee and the ILC.

We would also like to take note of the sixth report of the Special Rapporteur, Mr. Juan Manuel Gómez Robledo, and welcome his extensive study of the opinions of delegations presented in the Sixth Committee on this topic.

With respect to the Guide to Provisional Application of Treaties adopted by the Commission on second reading, we are of the view that it can be a useful tool in treaty practice and certainly can facilitate treaty operations at the international level. The Republic of Poland uses provisional application on an exceptional basis, particularly because it cannot be used as a means of bypassing Parliamentary procedures. In this context, the guide seems to adequately balance different values standing behind provisional application. Furthermore, we are of the view that the Commission's streamlining of the guidelines text during this year's session, specifically with respect to reservations and performance in good faith of treaties provisionally applied, was a step in the right direction.

Poland notes that the Guide to Provisional Application of Treaties fits into the ILC's practice of commenting on and clarifying different provisions of the Vienna Convention on The Law of Treaties. The significance of this 'Code of Treaties'

undoubtedly demonstrates the pertinence of such a methodology. In this context, the Commission could consider whether other provisions of the Vienna Convention, such as the definition of a treaty, denunciation, or inter-se agreements, could be similarly elaborated. Furthermore, taking into account the lack of progress in the Sixth Committee's work on universal criminal jurisdiction, the Republic of Poland is of the view that the Commission is well-positioned to assist States in defining universal jurisdiction, identifying its nature and scope, and considering State practice in its application.

*Thank you, Madam Chair.*