maritime encroachment is permissible under international law, our planet-our home-is falling apart around us. Storms of historic intensities ravage islands and major continents alike, desertification entraps and upends rural and nomadic societies, unprecedented warming melts glaciers and the globe's polar regions, sea levels rise and threaten coastal communities in all coastal States, and warming and acidify_ing waters endanger the maritime food chain and kill coral reefs at alarming rates. All these ills afflicting our planet have their roots in humankind's bombardment of the planet's atmosphere with excess gases, pollutants, and other harmful substances, all of which degrade the atmosphere and set off chain reactions of catastrophic consequences around the planet.

It is precisely because of the importance of this matter that Micronesia submitted Comments to the Commission in January of this year on the topic of the protection of the atmosphere. In those Comments, Micronesia echoed Mr. Murase's warning from his first report that the planet is ill-served by the "patchwork of instruments" that currently address the protection of the atmosphere. Micronesia asserted in its Comments that "[o]nly through the establishment of a comprehensive global regime to regulate the protection of the atmosphere in a robust manner can we safeguard the livelihoods-and the lives-of present and future generations of humankind."

Micronesia is therefore concerned about the approach taken by the Commission in its consideration of Mr. Murase's second report. In that report, Mr. Murase reco!llmended a revised draft guideline 3 that asserted that the atmosphere is a "natural resource essential for sustaining life on Earth, human health and welfare, and aquatic and terrestrial ecosystems, and hence the degradation of atmospheric conditions is a common concern of humankind." However, the Commission decided to convert that draft guideline into a preambular paragraph, thereby stripping the text of its operative essence. Furthermore, and more alarmingly, the Commission modified the revised guideline to state that "the protection of the atmosphere from atmospheric pollution and atmospheric degradation is a pressing concern of the international community as a whole." This alteration is subtle but profound. As the Commission's report indicates, the use of the phrase "pressing concern of the international community as a whole" is meant to be a factual statement rather than the normative statement about the "common concern of humankind" contained in the former draft guideline. In other words, the Commission shies away from explicitly acknowledging that the degradation of atmospheric conditions is a common concern that all States are legally obligated to address cooperatively, comprehensively, and urgently.

The Commission notes in its report that it was reluctant to make that acknowledgement in part because the "concept of common concern still might not be clear or established in international law and lack sufficient support in State practice." The Commission also hesitated to make that acknowledgement because it did not consider that the prevention of transboundary air pollution has become a common concern of humankind, at least not to the extent that the prevention of ozone depletion and climate change has. However, these explanations do not really jibe with the current state of international law. The first paragraph of the preamble to the United Nations Framework Convention on Climate Change underscores that "change in the Earth's climate and its adverse effects are a common concern of humankind." The third paragraph of the preamble to the Convention on Biological Diversity asserts that "the preservation of biological diversity is a common concern of humankind." And, more recently, the first paragraph of the preamble to the Minamata Convention on Mercury defines mercury as "a chemical of global concern owing

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to its long-range atmospheric transport." These are just several of numerous examples in
international law that the Commission itself cites in its report when it discusses the notion of
"common concern of humankind" in relation to th,e protection of the atmosphere. Additionally,

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