



Report of the International Law Commission on the work of its
 seventy -second session
 (Agenda item 82)
Statement by Portugal

Cluster 1

Chapters:

Madam Chair,

It is good to be back to our discussions on the International Law Commission Report.

This being the first time that I am taking the floor in this session, let me congratulate you on your election as Chair of the Sixth Committee.

Allow me also to thank the Chair of the International Law Commission, Mr. Mahmoud D. Hmoud for presenting the Report on the work carried out by the Commission during its seventy-second session.

My Delegation will begin by making a few general
 comments on the report, including Chapter I. The report,
 will then address the topics³² and³³
 and³³

We will address the other chapters of the Report in the coming days, according to the clusters proposed.



Due to time restrictions, my delegation will deliver an abridged version of its statement. The full statement will be submitted to the Secretariat.

General comments, included in Chapter X of the ILC Report

Madam Chair,

For decades, the Commission has critically supported the General Assembly in carrying out its mandate under the Charter of the United Nations to encourage the progressive development of international law and its codification.

In 2020, the session of the International Law Commission regrettably had to be postponed, due to the COVID-19 pandemic. Portugal is happy to note that this year the Commission was able to hold its Seventy-Second Session despite still facing significant limitations. We would like to commend the Commission and the Secretariat for this achievement. The adoption of new methods of work facilitated by technology, such as holding meetings in a hybrid format, was

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Great efforts had to be made by Members of the Commission, the Secretariat, as well as the interpreters and other UN staff, to minimise the negative impact of the many challenges encountered in this session and that are identified in the report. These challenges compromised the capacity of the Commission, as well as a detailed negotiation of texts.



Furthermore, it could provide a useful panacea to certain negative consequences of the fragmentation of international law .

Judicial decisions and teachings of the highly qualified publicists are a form of evidence of international law which are routinely referred to by international and national courts and tribunals. Yet, those references are far from coherent in interpretation in courts and tribunals, which can lead to fragmentation of international law.

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the Study Group on the ³⁾UDJPHQDWLRQ RI , QWHUQDWLRQDO /D.*



Madam Chair,

It has been the understanding of Portugal that studying the protection of



³ « atmospheric pollution and atmospheric degradation as a human right to a clean, healthy and sustainable environment »

Madam Chair,

Scientific evidence shows that atmospheric degradation has a profound and long-term negative impact on the sustainability of ecosystems, with prejudice to the full enjoyment of human rights and to the environment as a common good of humankind.

Portugal supports the doctrine recognising that a human right to environment, as encompassing a sustainable atmosphere, is becoming a staple in International Human Rights Law.

Since we argue that a human right to environment must correspond to clear and enforceable State obligations on preventing, reducing, and controlling atmospheric degradation, Portugal salutes the clear statement thereof in Draft Guideline 3.

My delegation argued in this Committee that the interrelationship between the rules of international law relating the atmosphere and human rights raises many problems, such as the interpretation of jurisdiction, identification, and implementation.

Moreover, in Draft Guideline 9, the Commission also successfully delivered guidance on one of its greatest challenges on this topic: to clarify the interrelationship between relevant rules of different areas of international law.

Madam Chair,





Accordingly, any effort to improve current practices and to clarify the use and application of the provisional application mechanism must be celebrated.

With this Guide, States, international organisations, and other users now have at

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law in light of contemporary practice and addresses topical questions on the
matter ±



may declare they wish to apply provisionally a treaty or a part of a treaty in cases



Madam Chair,

This concludes the statement of the Portuguese delegation under Cluster 1 of this agenda item.

Thank you, Madam Chair.