

1. Japan acknowledges the importance of this topic in finding common legal principles arising from the existing treaties related to the environment. Japan would like to congratulate the Commission and the Special Rapporteur Dr. Shinya Murase on the successful completion of the first reading of this topic and the adoption of the Preamble and 12 Draft Guidelines, and wishes to make three observations.

2. First, Japan recalls that the 4th Preambular Paragraph of the Draft Guidelines states that “the protection of the atmosphere from atmospheric pollution and atmospheric degradation is a pressing concern of the international community as a whole.” Taking into consideration the fact that the Paris Agreement in 2015 recalled the concept of “a common concern of humankind”¹ in its preambular paragraphs, Japan considers it appropriate for the ILC to reconsider this paragraph in the second reading and to update the discussions on this concept.

3. Second, Japan recalls that Draft Guideline 1 (b) states that “Atmospheric pollution” means the introduction or release by humans, directly or indirectly, into the atmosphere of substances contributing deleterious effects extending beyond the State of origin of such a nature as to endanger human life and health and the Earth’s natural environment. Taking into consideration the fact that the 1982 United Nations Convention on the Law of the Sea (UNCLOS) adopts “substances or energy” in Article 1 paragraph 1 (4), Japan considers it appropriate for the ILC to reconsider this subparagraph in the second reading and to update the discussions on this concept.

4. Third, Japan respects that the Commission upholds the 2013 Understanding that was established as a condition and guiding principle for its consideration of the topic. Japan notes that the Commission and the Special Rapporteur have faithfully respected the 2013 Understanding in completing the first reading of the topic. A question may be raised as to whether it is necessary to repeat the content of the 2013 Understanding in the Guideline. Therefore, Japan considers it appropriate for the ILC to discuss in the second reading all possible formulas including the deletion of the 8th Preambular Paragraph as well as Paragraphs 2 and 3 of the Draft Guideline 2 on “Scope of the guidelines.”

¹ *Paris Agreement*, adopted 12 December 2015, 11th Preambular.