



The Permanent Mission of the Kingdom of the Netherlands to the United Nations presents its compliments to the Secretary-General of the United Nations, and with reference to the former's Note Verbale of 1 September 2020 (NYV/2020/368), wishes to bring the following to his attention.

In its Note Verbale mentioned above, the Kingdom of the Netherlands had informed the Secretary-General of the incorrect reflection of its remarks made on the topic of "succession of States in respect of State responsibility" in the Fourth Report of the Special Rapporteur which was published in 2020. The Netherlands had requested that these errors be corrected, and had asked the Office of Legal Affairs to ensure correct reflection of the comments of the Kingdom of the Netherlands in the future.

The Netherlands regrets that, to date, no addendum has been published to correct the errors in the Fourth Report of the Special Rapporteur on succession of States in respect of State responsibility. The Netherlands wishes to remind the Secretary-General that, as also reflected in the aforementioned Note Verbale, this was not the first time that a report by a Special Rapporteur incorrectly reflected a position of the Netherlands.

While Special Rapporteurs are independent experts, remarks of the Member States of the United Nations on their work should be taken into account and correctly reflected. A product of the International Law Commission (ILC) that enjoys no or very little support among the Member States of the United Nations will fail to do justice to the purposes of the Commission. That requires, at least, a correct reflection of the positions of the Member States. It also requires that these positions are duly considered and that the Special Rapporteur, the Drafting Committee of the ILC, and the ILC as a whole assess and appreciate the extent of support for their proposals among the Member States of the United Nations.

Lastly, with respect to the topic "protection of the atmosphere", the Netherlands would like to draw your attention to the reference in the ILC's report of 2021 to the comments and observations received from Governments and international organizations. The





comments of the Netherlands are not correctly referred to in the report. Through our diplomatic note of 9 December 2019, we invited the Secretary-General to take note of an advice of the (independent) Dutch Advisory Committee on Issues of Public International Law and understand that it has been brought to the attention of the ILC. The advice is now cited in the document on Comments and observations from Governments and international organizations. However, the reference fails to make clear that it concerns an advice of the Dutch Advisory Committee on Issues of Public International Law to the Government of the Netherlands. It does not, as such, reflect the position of the Government of the Netherlands.

With that in mind, the Netherlands kindly request the Secretary-General to convey this message to the ILC, with a view to ensuring that the remarks of the Kingdom of the Netherlands on the work of the ILC are correctly reflected in the work of the Special Rapporteurs, the Drafting Committee and the ILC as a whole.

The Permanent Mission of the Kingdom of the Netherlands to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

