



Statement on behalf of the European Union

by

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at the Sixth Committee

on the agenda item 82-1

**Report of the International Law Commission on the work of its Seventy Second Session
(Cluster 1)**

on

Protection of the Atmosphere

and

Provisional Application of Treaties

United Nations, New York

25 October 2021

— CHECK AGAINST DELIVERY —

Protection of the Atmosphere

Ms/Mr Chairperson,

1. The European Union has the honour to address the 6th Committee on the topic of the protection of the atmosphere, which was considered by the International Law Commission (ILC) and which is discussed in Chapter IV of its report.
2. The Candidate Countries the Republic of North Macedonia , Montenegro , Serbia and Albania , the country of the Stabilisation and Association Process and potential candidate Bosnia and Herzegovina, as well as Ukraine, the Republic of Moldova and Georgia, align themselves with this statement and that on Provisional Application of Treaties which I will read later.
3. The European Union refers to the draft guidelines on the protection of the atmosphere, that the General Assembly is invited to take note of in a resolution and to ensure their widest possible dissemination.
4. The European Union fully supports this invitation, and welcomes the adoption of the guidelines and of their commentaries, which build on a strong body of customary international law and on international conventions, as well as the relevant principles of the Rio Declaration.
5. In particular, the European Union supports and welcomes the integrated approach to
6. The European Union furthers welcomes the careful and balanced drafting of the guidelines, which clarify and facilita

European Union reiterates the importance of the precautionary principle in this regard, and its application through impact assessments.



7. Finally, the European Union welcomes point (4) of the commentary concerning guideline 3, which confirms that States can discharge their obligations to protect the atmosphere

consideration of this topic and to express its appreciation for the work done on this very important topic.

3. The European Union welcomes the adoption of the Guide as well as the recommendation of the ILC to compile the practice of States and international organizations in the provisional application of treaties, as furnished by the latter over the years, together with other materials relevant to the topic. The European Union has been actively involved in the discussions on this topic and is pleased to see that some of its observations and suggestions are reflected in the final outcome.
4. The European Union will limit its intervention to making only a few remarks in relation to the text of the Guide and the commentaries thereto, as adopted.

Mr/Ms Chairperson,

5. The European Union notes with great satisfaction that the scope *ratione personae* of the draft guidelines is not limited to States but also includes international organisations.
6. Throughout its previous interventions, the European Union has advocated that the practice of States and international organisations on provisional application of treaties should be examined in depth. The European Union thus appreciates the fact that the ILC has considered the practice of the European Union and refers to it in the commentaries to the Guide, as well as in the annex containing examples of provisions on provisional application of treaties.
7. The European Union welcomes that the ILC emphasises the flexible nature of the provisional application of treaties and recognizes that international organisations may agree on solutions not identified in the Guide, if they consider them more appropriate to the purposes of a given treaty.
8. The European Union welcomes that guideline 4 on the form of agreement on provisional application recognizes that provisional application may be agreed also through an act of an international organisation adopted in accordance with its rules or by a declaration of an international organisation which is accepted by a State or other international organisations concerned. The European Union notes that subparagraph (b) of guideline 4 is intended to give examples and does not constitute an exhaustive list of means or arrangements through which provisional application may be agreed. The European

Union observes that in case where the provisional application is agreed through a declaration, the commentary states that the declaration must be expressly accepted by the other States or international organisations concerned, for the treaty to become provisionally applicable in relation to those States or international organisations. The commentary further mentions that the guideline retains a certain degree of flexibility to allow for modes of acceptance other than written form on the condition that such acceptance is express. In addition, the commentary states that

is not meant to refer to the legal regime concerning unilateral declarations of States,

. The European Union notes that the ILC did not provide the clarifications requested by the Union, in particular with respect to the requirement for express acceptance and on the inapplicability of the legal regime of unilateral declarations.

9. *without prejudice*

reservations relating to provisional application and notes that the commentaries do not provide for more guidance on the legal effects of such reservations and their termination when a treaty enters into force. As the European Union has stressed in its previous interventions, in its view the effect of such reservations would end with the termination of the provisional application. The European Union notes with regret that due to the lack of significant practice concerning reservations relating to provisional application the ILC could not provide more clarifications on this matter.

10. Finally, the European Union notes with appreciation that the coaction, tWB T/F2 124ur/F2 128ur/10

