STATEMENT OF THE PHILIPPINES

Item 83 - Report of the International Law Commission
on the work of its 47'h session (Part 1)
Sixth Committee, 70th session of the United Nations General Assembly
Tuesday, 03 November 2015

Thank you, Mr Chairman.

The Philippines can hardly imagine the state of the multilateral treaty process today without the International Law Commission. We have always underlined the ILC's essential work in promoting and advancing the rule of law through the progressive development of international law and its codification, pursuant to Article 13 of the Charter of the United Nations.

In this vein, we thank the chairman of the ILC, Mr Narinder Singh, for his concise introduction of the ILC's report yesterday. We also congratulate the Study Group on the "Most-Favoured-Nation clause", led by its chairman, Mr Donald M. McRae, for the completion of their work on this subject, as well as thank the Special Rapporteur on the topic of "Protection of the atmosphere", Mr Shinya Murase.

Mr Chairman, MFN clauses accord a contracting party treatment not less favorable than that which has been or may be granted to the "most favored nation" among other countries. They establish the principle of equality of international treatment by providing that the citizens or subjects of the contracting nations may enjoy the privileges accorded by either party to those of the most favored nation. Under the regime of the World Trade Organization, exceptions to MFN are the preferential treatment of developing countries, regional free trade areas and customs unions.

During the last 25 years, the Philippines has pursued preferential and multilateral trading commitments to benefit from trade liberalization, alleviate poverty and raise standards of living. MFN treatment has been a key tool to achieve those objectives.

The 1978 draft articles on the MFN clause, while still helpful, have been overtaken by developments. We concur with the ILC that the very scope of MFN clauses has been the key interpretative issue. The very benefit that can be given and taken depends on the interpretation of the MFN provision itself. If the parties do not agree or fail to use clear and explicit language, MFN clauses in bilateral investment treaties could extend from substantive obligations to procedural protections or dispute

settlement provisions. This is the essence of the controversial Maffezini provi12Tj 0.01 Tc 11.8 0 33118.01368 70.7 16ha7 Tm (could16Tj 0.01 Tc 11.8 0 3650301368 70.7 16raivedm (treatie0j 0.0069 Tc 11.8 0404.5801368 70.7 16th Tm (coould 5) Tj 0.0385 Tc 11.281. 0 368 70.7 16.takes4 Tm (MFN) Tj 0.0086 Tc 11.8 0461164 0368 70.7 1624 Tm (explic5T220.09 Tm 6.16 Tm (111.8 368 70.7 16litigiouTm (the) p9Tj 0.01 Tc 11.8 0 011.8 011.6.8 70.74 178.57 Tm (treatieTj 0.0309 Tc 11.8 039.8 0 11.6.8 70.7lawyer7 Tm (could 1on) Tj 0.0089 Tc 19 0e90 11.6.8 70.7w8.57 Tm (eleme5 0.007 Tc 11.8 0 0 138088 11.6.8 70.7onlyTm (This) 2ions) Tj 0.0083 Tc 661.8 211.6.8 70.7bem (treatie0j 0.0069 Tc 11.8 0291.8 211.6.8 70.7tooTm (explic5T220.09 Tm 6.16 Tm 3 1108 211.6.8 70.7happyTm (explic5Tj 0.01 Tc 11.8 0 361.8 0 11.6.8 70.7beca24 Tm (clearTj 0.0109 Tc 11.8 0 417.e) 11.6.8 70.7ofm (treatie0j 0.0069 Tc 11.8 0431118 111.6.8 70.7th Tm (coould1Tj 0.0009 Tc 11.8 04661it 111.6.8 70.724 Tm (cla220.09 Tm 6.16 Tm (2.98 211.6.8 70.701 192) T4 T58.107) Tj 0.0091 Tc 111108 2(itn) T70.7Unde Tm (di.65 Tm (Maffe111i) Tj /Fh0 1 Tf 107.13 2(itn) T70.7 111650 0 18 0e) 192.o65 rwivesn9) Tj /Fh.7857 Tm (treai1.8 111650 0 18 0e6 Tc (could 14tt) Tj 0.0 Tc .4011288 8 0e) 192.2 116Tm (di.65 Tm n)309 Tc 11.8 0 11.8 313.14 164.6529.08m (di.65 Tm 0.earing009 Tc 11.8 11.8 0 0 11.8 346.2678.57 (di.65 Tm t0009 Tc 11.3111108 2(78 0 .6.8 70.7b.65 .57 (di.65 Tm 0069 Tc 11.8 0291.8 211.6.8 70.7t317858m (di.65 Tm al) Tj /Fh2 Tc 11.8 0 0 11.8 346341Tm ((di.65 Tm specific Tj 0.0083 7 3 1108 211.6.8 70.7h85.4650 0 18 0e) wil Tj 0.027 111108 2(972368 70.7 16th6.9650 0 18 0e) 0069 Tc 11.8 0431118 111.6.8 70.7t21858m (di.65 Tm al) Tj /Fh2 1 Tf 0.0178 Tc 11.644378.57 (di.65 Tm partie3 Tc 11.8 0 1 0 18 18 0e) 192.483.8.57 (di.65 Tm Tj 0.0350.042c 11.8 0 0 11.8 34658 33Tm (di.65 Tm eta 0.0385 Tc 40431118 111.6.8 70.7lso0 3955 Tm) Tj 0iv) Tj /Fh2 0 417.e) 11.6.8 70.797 T23955 Tm) Tj through69 Tc 11.8 0431118 111.6.8 70.71437463955 Tm) Tj th 0.0385 Tc 320 138088 11.6.8 70.7(This23955 Tm) Tj m 6.16 Tm089 Tc0431118 111.6.8 70.7194e) 955 Tm) Tj) Tj .0086 Tc 16 Tm (its19230.1 164.65242is)955 Tm) Tj if6.16 Tm089 T11.8 0 0 11.8 299.65 162 rwi955 Tm) Tj mor) Tj /Fh2 c 11.8 0 0 11.8 4ran282.965955 Tm) Tj favorabl) Tj /Fh2 5.4011288 8 0e) 192.3Tm 765955 Tm) Tj p Tmis Tjs009 Tc 11.3111108 2(27 Tm0e) 192.394eT23955 Tm) Tj ij 0.0089 1m 3 1108 211.6.8 70.74 11 04955 Tm settlement

We thank the study group for highlighting the role of the Vienna Convention on
the Law of Treaties in helping us interpret these treaties. The conclusions of their final report will certainly assist our authorities in better and more clearly negotiating bilateral investment treaties and tax treaties, among others, to hopefully avoid future problems.

Mr Chairman, we now turn to the topic of "Protection of the atmosphere".

The Philippines appreciates the study and negotiation of rules that are rooted in science. This is the essence of the draft guidelines. We thank the ILC for engaging the scientific community on this topic.

The atmosphere is our single biggest and one of our most important natural resources. It is a shared, common and possibly finite resource, therefore, it is our common concern. We have a general obligation to protect it from human activity, in other words, atmospheric pollution and atmospheric degradation. We have an obligation to cooperate in that protection, beyond enhancing scientific knowledge and the exchange of information and joint monitoring.

Scientific evidence says "with 95 percent certainty that human activity is the dominant cause of observed warming since the mid-20th century", quoting from the last paragraph of page 32 of the ILC report.