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70th Session of the United Nations General Assembly

Statement by

Mr. Mehdi REMAOUN

First Secretary

to

The Sixth Committee on the “International Law Commission, Cluster I”

[Agenda item 83]

Trusteeship Council Chamber, 4th November 2015

Mr. Chairman,

Allow me to express, our appreciation to the Chairman of the International Law Commission, Mr. Narinder Singh for the presentation he made on the first cluster of the work of the 67th session of the ILC.

My comments will focus, in this Cluster, on the chapters IV and V of the report of the Commission, addressing respectively “The Most-Favoured-Nation clause” and the “Protection of the atmosphere”.

First, Mr. Chairman, regarding “The Most-Favoured-Nation clause”,

My delegation would like to commend the efforts of the Study Group on “The Most-Favoured-Nation clause”, under the chairmanship of Mr. Donald McRae, and expresses its appreciation regarding the completion of the final report.

Algeria is fully convinced by the conclusion reached by the Study Group that underlines, *inter alia*, the importance and relevance of the Vienna Convention on the Law of Treaties as the point of departure in interpretation of the investment treaties.

We concur that the MFN clause remains unchanged in character since the conclusion of 1978 draft article. We note, therefore, that it continues to be the basis for the interpretation and application of the MFN clause, even if it doesn’t provide answers to all the interpretative issues.

Let my conclude the consideration of this chapter by echoing the recommendation made by the Commission in order to encourage the widest possible dissemination of the report.

Second, Mr. Chairman, concerning the “Protection of the atmosphere”,

My delegation reiterates its interest to the topic related to the “Protection of the atmosphere”. In this regard, we would like to express our appreciation to the Special rapporteur, Mr. Shinya Murase, for the second report (A/CN.4/681) presented under this item.

We welcome the approach chosen by the Special Rapporteur to undertake this highly technical topic. We appreciate that the report built upon the comments made last year by the Sixth Committee and the Commission to provide a further analysis on this topic. This document provides us with a set of new revised guidelines relating to the use of terms, including a definition of the atmosphere and the scope of the draft guidelines.

In this regard, we take note of the work progress in this topic by the provisional adoption of the draft guidelines 1, 2 and 5, and also 4 preambular paragraphs. Hence, we observed that the commission deemed necessary to provide a working definition in the draft guideline number 1 for the term “atmosphere”. Since there is no definition of this term in the relevant international instruments like the United Nations Framework Convention on Climate Change, we understand that this practical solution has been used, without prejudice to the relevant political negotiations, including climate change where Parties to the Convention may agree, under the actual draft text for consideration during COP21, on further definitions that may include the term “atmosphere”.

My delegation welcomes the drafting Guideline number 2 on the Scope of the guidelines and which covers our concerns to avoid interference with other international processes and *fora*. We look forward to completion of the discussions on bracketed parts of the first paragraph.

Regarding the Guideline number 5, we have noted that the two proposed paragraphs don't address all the aspects of international cooperation. Indeed, we are of the view that there is a need to fully cover the common understanding of the concept of “cooperation”, which implies necessarily the notion of assistance, including technology transfer, bearing in mind the different levels of development between developed and developing countries.

Lastly, my delegation notes with interest that the fourth preambular paragraph reflects literally the 2013 understanding of the Commission on the topic in its programme of work, we look forward to comment the revisited terminology and location that will be proposed.

I thank you.