



Resumption of the seventy-seventh session of the Sixth Committee, exchange of substantive views on draft articles on prevention and punishment of crimes against humanity, Cluster I (introductory provisions).

10 April 2023

Malta Statement delivered by Ms Augustina Siman, Senior Policy Advisor for Legal Affairs

Mister Chair,

At the outset, allow me to congratulate you as well as the vice-chairs and the rapporteur on the occasion of the resumption of the functions of the 6th Committee Bureau, and to assure you of my delegation's full support and cooperation in fulfilling your important mandate.

The adoption of the GA resolution 77/249 constitutes a significant step towards acknowledging and advancing essential products of the International Law Commission aimed at enhancing the rich yet somewhere lacunar legal relations between states. For many years, the work of the ILC Commissioners on important issues of public international law in need for codification would "hit a glass ceiling" in the 6th Committee, thus affecting the overall process of "progressive development" as mandated by the UN Charter and the Statute of the ILC.

We are therefore thrilled to participate in an exchange of substantive views on the draft articles designed to prevent and punish crimes against humanity and promote inter-State cooperation in this regard. The Draft



Articles serve as an important additional piece in the current framework of international law, and in particular, international humanitarian law, international criminal law and international human rights law.

Mister Chair,

Referring to the introductory provisions of the draft articles on Prevention and Punishment of Crimes Against Humanity, as the preamble traditionally forms part of a legal instruments for purposes of interpretation, it also defines the context and objectives of the respective. It plays an important role when, for instance, applying a treaty, and especially in cases of any occurring dispute settlements on the basis of such when the treaty is being carefully read by Judges and intervening parties.

We found the draft preamble to be overall reflective of the conceptual framework for the draft articles, drawing its inspiration from language used in the preambles of international treaties relating to the most serious crimes of concern to the international community as a whole: such as the the 1948 Convention on the Prevention and Punishment of the Crime of Genocide – which has 153 States-parties, and the Rome Statute – which has 123 States-parties. Thus, the draft preamble builds upon undeniable political and legal concepts commonly agreed upon by the wide UN membership, namely: most serious crimes of concern to the international community as a whole must not go unpunished; in order to liberate mankind from such an odious scourge, international co-operation is



required; it is the duty of every State to exercise its criminal jurisdiction over those responsible for these international crimes.

We applaud the consensual conclusion reached by the ILC Commissioners to recognize, in the preambular part, crimes against humanity as a *jus cogens* norm. No derogation can ever be permitted from prohibiting such crimes given their gravity: treaties and unilateral declarations in conflict with this understanding must be void, states as well as international organizations must cooperate to bring to an end any serious breach of the respective *jus cogens* norm and must not recognize as lawful a situation created by such a breach, nor render aid or assistance in maintaining such situation.

Mister Chair,

We also fully support the wording of article 1, indicating the scope of the draft articles at the debut. It becomes clear for further reading and implementation that the draft articles refer to prevention and punishment of specific grave international crimes, that carry a great risk given that those can be committed during peace and war time, having thus a very precise mandate of filling in an existing normative gap.

We look forward to a productive resumed working session and to learning more about states' views on the draft articles.

I thank you.