



**STATEMENT BY THE CUBAN DELEGATION AT THE SIXTH COMMITTEE
ITEM 3 & 5, (S/RES/167 + 80 S/1, 7 < ')**

by the
International Law Commission in order to present
draft articles on this topic.

Cuba is a historic defender of the respect for
international law and its principles, especially
international criminal law.

The fight against impunity for crimes against
humanity is of paramount importance and
transcendence within the current international
context. Therefore, Cuba considers that the draft
articles prepared by the International Law
Commission are a valid contribution to the efforts to
materialize the international prevention and
punishment of these types of crimes and will

contribute to the efforts to strengthen the international criminal justice system.

Similarly, it also provides useful guidance for States that have not yet adopted norms related to the criminalization and prosecution of such crimes at the national level.

Cuba recognizes the effort made by the Special Rapporteur to take into account various national and regional approaches in order to enrich the draft articles and contribute to international consensus. However, there are still many doubts regarding the contents of the formulations presented.

At the same time, we consider it appropriate to reiterate that in a Convention on this issue it should be reflected, as a fundamental principle, that the primary responsibility for preventing and punishing serious international crimes committed under its jurisdiction should lie, in the first place, with the State in question.

Given the substantive concerns that still exist in relation to the draft articles submitted, the Sixth Committee should continue to consider this topic on the basis of the States' commentaries, and in the format of a working group that meet during the main segment of its session. It is worth recalling that among the concerns that still remain is the issue of the definition of crimes against humanity used in the draft articles, which is based on the one, contained in the Rome Statute of the International Criminal Court, despite the fact that several countries have not signed this instrument.

This discussion will

States that are not parties to the Rome Statute of the International Criminal Court.

Such Convention should also avoid conflicts with international instruments already adopted, in order to ensure consistency with the current norms and institutions of international criminal law, as well as to avoid regulatory dispersion on this issue in the international system.

We do not see the urgency in the accelerated adoption of this draft without a prior exhaustive study of its contents, through the methods traditionally employed by the Commission, as is the case of the working groups that meet during the main segment.

On the other hand, there are international instruments in force on this topic, to which should be added the recent launching of a parallel initiative for the elaboration of a convention on international cooperation to investigate and prosecute the crime of genocide and war crimes and crimes against humanity. In this regard, we believe that there are significant overlaps between the draft convention and

the draft articles. In this connection, and given the current uncertainty, we prefer not to rush the launching of a new and complex negotiation.

In closing, we reiterate that the binding force of this type of instrument derives from the consent of States in the international law formation process. We cannot consider the ILC, *per se*, as a kind of legislative body responsible for establishing rules of international law.