

Mr Chairman,

Please allow me to begin my second address before this Sixth Committee by once again congratulating the International Law Commission on the quality of its work during its 68th session. On this occasion, my Delegation wishes to underline most especially the quality and depth of the reports presented in Chapters VII to IX.

Chapter VII: Crimes against humanity

As regards Chapter VII, dedicated to crimes against humanity, Spain would like, firstly, to congratulate Mr Sean D. Murphy on his second report, and the Commission on its draft articles and commentaries, which have been approved provisionally. We are aware of the inherent difficulty of this matter, of the wide variety of contentious issues that it raises, and of the internal divide that has occurred within the Commission. Even separating crimes against humanity from other crimes, such as genocide and war crimes, is a decision involving more than a few problems.

It is no surprise, therefore, that the report is excessively detailed (106 pages) — twice as many pages as the maximum recommended by the Commission in 2011. In the case of the report, this does not constitute a particular difficulty; it is comprehensible, since it is such a complex matter. But this length and this level of detail should not be extended to the wording of the draft articles.

criminal law is applicable to the entire definition in article 3, or only to paragraph 1. It is, moreover, essential that terminological considerations, or considerations of any other nature, made by each State when making crimes against humanity constitute offences under its criminal law, do not give rise to descriptions that deviate from the meaning given to these crimes in draft article 3.

Secondly, my Delegation is not entirely convinced whether wording paragraph 2 of draft article 5 in very general terms is more appropriate than more detailed wording; this is the approach followed, for example, by the Rome Statute, which created the International Criminal Court.

which entrust the protection of stateless persons to the State in which they are lawfully and habitually resident (article 8.1). Spain does not seek to alter the criteria set forth in draft article 10, but it could be necessary to include some additional explanation in the commentary.

Chapter VIII: Protection of the atmosphere

Mr Chairman,

With regard to Chapter VIII, the purpose of which is the protection of the atmosphere, my Delegation wishes, first of all, to congratulate Mr Shinya Murase on the presentation of his third report on this issue. Our congratulations are also addressed to the Commission, on the provisionally approved texts.

As the EU has stated/will state, the reference in the *new paragraph of the preamble* to the needs of developing countries does not reflect the more balanced approach currently prevailing in this regard. The Paris Agreement of 2017. y jkej vcnmu cdqww ðeqo o qp dwv fkhhtgtpvkcvgf t gurqpukdknkvguö (Ctvkeng 404). hcnu cnqpi vjgug pgy nkpgu0 Vjg kpvtwo gpv finally approved by the International Law Commission should also fall along these lines.

Whether or not to include in *draft guideline 4* ('*Environmental impact assessment*') a reference to transparency and public participation as important elements in the environmental impact assessment procedure may be a moot point.

However, we do consider that the exclusion of military activities from the scope of *draft guideline 7* ('*Intentional large-scale modification of the atmosphere*') should be stated

Spain continues to believe that it is fundamental to preserve the open and flexible nature of the process of creating *jus cogens* norms, and that producing a list of such norms could call this objective into question.

We are not entirely convinced that *draft conclusion 2* (*'Modification, derogation and abrogation of rules of international law'*) should allude to *jus dispositivum* norms in international law.

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As regards *draft conclusion 3* (*'General nature of jus cogens norms'*), we agree with those members of the Commission who have expressed their doubts regarding the need to allude in paragraph 2 to the hierarchical superiority of *jus cogens* norms. Said position must be considered a consequence of the peremptory nature of these norms, as stated in paragraph